VOLUME 12 NUMBER 2 2011

IFAR Journal

INTERNATIONAL FOUNDATION FOR ART RESEARCH

IN THIS ISSUE:

THE MYSTERIOUS NEW-FOUND PICASSOS

NAGPRA AT 20
NEW WWII WEB RESOURCE(S)
CRUISE SHIP AUCTION LITIGATION
ONE WARHOL SUIT ENDS; ANOTHER BEGINS

INCORPORATING STOLEN ART ALERT

IFAR Journal, ISSN 1098–1195, is published quarterly by the International Foundation for Art Research, Inc., 500 Fifth Avenue, New York, NY 10110. Subscription rates are $75 per year.

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2 NEWS & UPDATES

2 Yale and Peru End Machu Picchu Dispute

5 Authentication Hopes Dashed as Warhol Board Snuffs Simon's Suit But Stays in the News

10 Lost at Sea in the Fine Print
Park West Opponents Face Setbacks in Cruise Ship Auction Litigation

14 The Picassos Gave *What* to *Whom?*
Picasso's Electrician Reveals Cache of Unknown Works

18 Breaking — and Bad — News from Cairo

22 NOT A MOMENT TOO SOON:
A NEW RESEARCH TOOL UNTANGLES ERR RECORDS
Nancy Yeide

28 NAGPRA'S 20TH ANNIVERSARY:
REFLECTIONS ON THE WATERSHED LAW IMPACTING THE COLLECTING OF NATIVE AMERICAN OBJECTS
Susan Benton Bruning

37 STOLEN ART ALERT

COVER: PABLO PICASSO, *Still-Life, Glass and Sand.* One of nine Picasso still-lifes in the trove of works revealed by Pierre Le Guennec. See story on p. 14. © 2011, Estate of Pablo Picasso/ Artists Rights Society (ARS), NY. Image: AP.

YALE AND PERU END MACHU PICCHU DISPUTE

Pots Will Go Back; Research Will Continue

The Government of Peru and Yale University have resolved their long-running dispute over the objects removed by Hiram Bingham from Machu Picchu almost a century ago. On November 23, 2010, Yale's President, Richard Levin, signed an agreement with Peru's President, Alan Garcia, under which all the objects will be returned; those of museum quality by mid 2011, in time for ceremonies celebrating the centenary of Bingham's scientific discovery of Machu Picchu, with more materials to be returned by the end of 2011. All materials will be returned by the end of 2012.

FIGURE 1. Three of the thousands of objects found by Hiram Bingham at Machu Picchu.

"Multiple agreements and decrees were involved, some clearer than others, and Yale had returned much of the material in the 1920's, but it still retained some 370 objects suitable for exhibition and thousands of artifacts . . ."

The entire collection will be housed in a museum and research center, to be called the U.N.S.A.A.C.-Yale International Center for the Study of Machu Picchu and Inca Culture, located at the San Antonio Abad University in Cuzco, Peru, and will be broadly available for study. The two universities signed a formal partnership agreement on February 11, 2011, ending years of disagreement and a legal battle that raised complex issues of prescription and sovereign rights.

Bingham, lecturer at Yale and explorer, came upon the Inca ruins of Machu Picchu in the Peruvian Andes in 1911 and put this extraordinary monumental complex on the cultural and scientific map. In the course of doing so, he scooped up and shipped back to Yale University large quantities (74 crates on one expedition alone) of pottery, bones, remains and fragments of all kinds, although, unlike Indiana Jones, his modern day reflection, he apparently found no gold or diamonds. Bingham's exploits and collections were widely admired by many, but left as a legacy in Peru an organized and consistent opposition to unrestrained export of the country's cultural patrimony.

The expeditions were conducted under the auspices of Yale and the National Geographic Society, and the materials they uncovered were exported under Peruvian decrees that allowed artifacts to leave the country only for research purposes and required that they be returned. Multiple agreements and decrees were involved, some clearer than others, and Yale had returned much of the material in the 1920's, but it still retained some 370 objects suitable for exhibition and thousands of artifacts, broken into 46,000 pieces, valuable for research. Yale archaeologists have done important work, particularly since the mid 1980's, adding to world understanding of Machu Picchu and Inca culture. Still, the retention of these objects for almost a century has sat badly in Peru. Recently, successive Peruvian governments have sought with increasing insistence to recover the objects. This reflects the enormous symbolic and practical importance of Machu Picchu, recently chosen one of the new Seven Wonders of the World, and the destination of over half the tourists who visit Peru.

The resolution is a good outcome, thanks to the efforts of many players. Yale deserves credit for the preservation of the materials and useful learning about the function

of the complex and its inhabitants. Yale can also take pride in showing sensitivity to Peru's strong feelings that these objects were its national property and should be returned. Peru conducted a successful campaign, building the legal case for repatriation, and gaining international support for its position. It kept channels open to Yale even as it made a strong public demand for the return, and the parties reached, at the right moment, a simple, reasonable resolution. A host of third parties offered advice, comments, and support, some of which was helpful. Given the passions the matter excited in Peru, it was a feat to pull the agreement off without a political crack-up just as the campaign for the next presidential election was heating up (Garcia is not a candidate for reelection).

THE RECENT DISPUTE

The issues raised by the conflict could have been explosive; a dangerous mix of 19th century expedition and excavation practices and 21st century sensitivity to exploitation. What were the major steps over the last ten years that successfully defused it?

"Yale sent repeated signals of its willingness to talk and suggested mediation."

A key early one was that Professor Mariana Mould de Pease and others brought to light the laws and records of the Bingham expeditions, providing a strong basis to conclude that the transfer to Yale had been temporary, the essential underpinnings for the legal claim for recovery. Among many others, Luis Lumbreras, then Director of the National Institute of Culture, and Elaine Karp, wife of then President Alejandro Toledo, raised awareness regarding the materials. Importantly, the National Geographic Society supported this position.

In September 2007, early in President Alan Garcia's administration, negotiators for Peru and Yale signed a non-binding memorandum of understanding that proposed a three part solution: Yale would acknowledge that Peru owned all the materials, Yale would agree to return the museum quality pieces promptly, and Yale would keep the research materials for 99 years. (See *IFAR Journal*, Vol 9, nos. 3 & 4.) Later this "solution" was much derided, as Peru refused to accept a lengthy retention by Yale of most of the material, and the negotiations broke down. Still, it laid some groundwork for the ultimate success. Yale's acceptance in principle of Peru's title bolstered Peru's case in the court of public opinion, and once the parties returned to the table, the area of disagreement was, helpfully for Peru, narrowed to how soon the research materials would be returned.

"The suit increased pressure on both sides and appeared to offer Yale the chance to knock out Peru's claim with a statute of limitations argument . . ."

In December 2008, after negotiations failed to resume, Peru sued in the United States federal court for recovery of the artifacts (*Republic of Peru v. Yale University,* No. 3:09-CV-01332). The suit increased pressure on both sides, and appeared to offer Yale the chance to knock out Peru's claim with a statute of limitations argument: that Peru had waited too long to assert its rights in court. Peru was impacted by the transfer of the case from Washington, DC, to Hartford, Connecticut. The matter hung in the balance as the hundredth anniversary of Hiram Bingham's 1911 discovery approached.

Peru's situation began to improve after mid 2009 with a change of legal counsel, with a reasonable approach to Yale, and with the naming this year of Peru's first Minister of Culture, Juan Ossio, a respected academic. Yale has been involved in joint projects with other universities, particularly in China and South East Asia, emphasizing its multicultural sensitivity, and the ongoing dispute with Peru must have raised eyebrows. Yale sent repeated signals of its willingness to talk and suggested mediation.

In June 2010 Senator Christopher Dodd of Connecticut traveled to Peru and encouraged a resolution. In September, over half the Yale alumni living in Peru wrote to

President Levin asking for the return of the artifacts. Others, notably members of the Bingham family, joined in. In mid-September, a federal court hearing on the case showed that the judge was considering it with care and that Peru had strong arguments against Yale's legal position. This would be no slam dunk for Yale.

President Garcia then called for the return of the materials, and he and his cabinet launched a barrage of blustery public statements, going so far as to suggest criminal action against Yale. This was supported by demonstrations and marches, generating awkward publicity for Yale, but also usefully keeping Garcia in control of the wave of protest and preempting any more extreme local posturing in Peru. Garcia and his foreign minister called for support from other leaders, including President Obama, resulting in a flurry of State Department activity. A number of European nations, Egypt, Ecuador and others showed support. In November, Yale sent a delegation to Lima, headed by Yale Professor Ernesto Zedillo, the former President of Mexico, and reached an amicable agreement with President Garcia. Since then a Yale committee, including its principal Machu Picchu researchers Richard Burger and Lucy Salazar, has been to Cuzco to review arrangements for the exhibition and study of the materials, and the formal partnership agreement between Yale and the University of San Antonio Abad in Cuzco has been signed providing for a major museum and research center there and ongoing student and faculty interchanges.

It was important for the successful resolution that Peru set forth and held to a brief, practical demand and that Yale and Peru maintained working contacts that allowed them to better understand each other. The result was a reasonable and dignified solution. Because the resolution was mutual, it allows future friendly relations between the parties. The door is now open for Peru and Yale to work together, with others, to understand and protect Peru's rich cultural heritage. And perhaps Yale and Peru can offer their experience together as a good case study for statecraft and peacemaking in a global world.

— **FREDERIC J. TRUSLOW, ESQ.**[1]

1 Frederic J. Truslow is a Yale graduate, who has been involved in art protection activities in Peru for many years. In the 1980s, he was an attorney for the law firm Lane and Edson PC, which represented Peru. He has served in several capacities as a consultant for IFAR.

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LETTERS TO THE EDITOR

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AUTHENTICATION HOPES DASHED AS WARHOL BOARD SNUFFS SIMON'S SUIT, BUT STAYS IN THE NEWS

The Andy Warhol Foundation for the Visual Arts has been busy making news all winter. As if the *Simon-Whelan* case that *IFAR Journal* has been covering (see below) weren't enough,[1] the Foundation entered the political fray in December when it threatened to cut off its support of the Smithsonian Institution unless the National Portrait Gallery reinstated a film by the late artist David Wojnarowicz to the exhibition *Hide/Seek: Difference and Desire in American Portraiture* — which had received $100,000 from the Warhol Foundation. The film, entitled *A Fire in My Belly,* dealt with gay and Christian themes, and contained an 11-second sequence that so offended conservative politicians and interest groups that the museum removed the work.

In his letter to G. Wayne Clough, Secretary of the Smithsonian, Warhol Foundation president Joel Wachs stated that the Foundation refused to "stand by and watch the Smithsonian bow to the demands of bigots who have attacked the exhibition out of ignorance, hatred and fear." While the Smithsonian ultimately stuck with its decision, the Warhol Foundation spurred action and public debate, including the showing of the film in the Warhol Museum in Pittsburg, as well as in several other venues across the country.

FIGURE 1. ANDY WARHOL(?), ***Self-Portrait,*** **Silkscreen on canvas, 24" x 20". Coll. Joe Simon; Photo courtesy Joe Simon.**

In the litigation realm, an authenticity decision by the Andy Warhol Art Authentication Board in 2000 is at the heart of a lawsuit brought by Gerard Malanga, a poet and artist who had been one of Warhol's principal assistants, against sculptor John Chamberlain. Malanga claims that Chamberlain wrongfully possessed and then sold a work by Malanga, *315 Johns,* as a work by Andy Warhol for $3.8 million.[2] On December 13, a state trial court in Brooklyn denied Chamberlain's motion for summary judgment. While, as the court noted, the case is rife with factual disputes, one of the most nettlesome is the fact that the Board had authenticated the work *as a Warhol.*

The *Malanga* suit came on the heels of an Authentication Board reversal, in July 2010, of its previous acceptance of several particle board "Brillo Boxes" purported to have been created per Warhol's instructions for the famed *Andy Warhol: Screens, Films, Boxes, Clouds and a Book, 1968* exhibition at the Moderna Museet in Stockholm, Sweden. When it came to light that, in reality, only actual *cardboard* Brillo boxes supplied by the Brillo Company were included in the 1968 show, the Warhol Board began an investigation. It discovered that the particle board boxes were made and sold by Pontus Hultén in 1968 after the show and again in 1990 for an exhibition at the Russian Museum in Leningrad. Hultén, now deceased, was the esteemed curator of the 1968 show and also the founding director of the Moderna as well as the Centre Georges Pompidou in Paris. In its July report, which downgraded the status of the 1968 boxes to "exhibition related copies," and the 1990 boxes to "exhibition copies," the Board noted that its earlier authentications had been in reliance on Hultén's assertions that the boxes had been made "according to Andy Warhol's instructions" and were included in the 1968 exhibition.

On the opposite end of the authentication spectrum, collector Addison Thompson brought a *pro se* (without counsel) lawsuit against the Warhol Foundation and Authentication Board in

1 *Simon-Whelan v. The Andy Warhol Foundation for the Visual Arts,* No. 07 CV 6423(LTS) (S.D.N.Y. filed July 24, 2009).

2 *Malanga v. Chamberlain,* No. 38886/05, slip op. (N.Y. Sup. Ct. Dec. 13, 2010).

"Just prior to the hearing, Joe Simon told IFAR, 'I firmly believe that my case is robust, and that I would prevail if it were to come to trial. However, due to extraordinary circumstances, I now find myself without sufficient legal representation'."

October 2010, alleging that it violated the antitrust laws when it did not authenticate a work that he owns.[3] Thompson voluntarily withdrew the case in January.

Thompson's decision to end his lawsuit is perhaps not surprising, given the recent outcome in the *Simon-Whelan* case. That contentious and much publicized dispute[4] between art collector Joe Simon (sometimes referred to as Joe Simon-Whelan) and the Foundation, the Authentication Board, and other Warhol-related defendants (collectively, the "Warhol Defendants") over the authenticity of a 1965 silkscreen that Simon owns **(FIG. 1)** and believes to be a Warhol self-portrait, ended quietly on November 10, 2010 in a Manhattan federal courtroom with Simon reluctantly agreeing to withdraw his case. Just prior to the hearing, Joe Simon told IFAR, "I firmly believe that my case is robust, and that I would prevail if it were to come to trial. However, due to extraordinary circumstances, I now find myself without sufficient legal representation." Simon said that he felt he had "no other choice" but to end the case, given that he "simply [did] not have the resources to continue."

In documents filed with the court on November 30, Simon conceded that after having "aggressively litigated" his case, including taking several depositions and reviewing "thousands of pages" of documents, he could not point to any evidence to support his antitrust or other claims. He admitted, in particular, that he had "no evidence" and had never been "aware of any evidence" that the defendants engaged "in any conspiracy, anticompetitive acts or any other fraudulent or illegal conduct in connection with the sale or authentication of Warhol artwork," or "in any monopolistic conduct of any sort."[5]

"Joel Wachs, president of the Andy Warhol Foundation . . . declared the settlement a 'complete vindication of both the Foundation and the Authentication Board'."

Simon received no payment in return for his agreement to end the case. Rather, his sole consideration was that the Warhol Defendants agreed to release him from liability for any claims, including a sanctions motion that they had threatened. The terms of the agreement also forbid Simon from profiting from the case, such as through publishing a book or selling movie rights. Simon is, however, allowed to keep and even sell the silkscreen, which, he told IFAR, he still has, and nothing in the agreement appears to require him to shut down his Web Site — www.myandywarhol.eu — or otherwise refrain from discussing the case (although he is not permitted to assist others attempting to sue the Warhol Defendants). And, while the Authentication Board maintains that the work is not by Andy Warhol, Simon was not required to renounce his belief in its authenticity.

Susan Shaer, the plaintiff in a separate but related action against the Warhol Defendants, also settled her case under nearly identical terms, the only difference being that the Warhol Defendants had actually filed a motion for sanctions against her and agreed to withdraw it as part of the settlement. Shaer, who owns a silkscreened self-portrait from the same 1965 series as Joe Simon's work, and Simon were represented by the same attorney.[6]

Joel Wachs, president of the Andy Warhol Foundation for the Visual Arts, issued an official

3 *Thompson v. The Andy Warhol Foundation for the Visual Arts,* No. 1:10-cv-07796-LTS-AJP (S.D.N.Y., filed Oct. 13, 2010).

4 See, e.g., Richard Dorment, "What is an Andy Warhol?" *New York Review of Books,* rev. of Andy Warhol by Arthur C. Danto; *Pop: The Genius of Andy Warhol* by Tony Scherman and David Dalton; and *I Sold Andy Warhol (Too Soon)* by Richard Polsky, 22 Oct. 2009; Jason Edward Kaufman, "New York Challenge to the Andy Warhol Art Authentication Board," *The Art Newspaper,* Issue 140, Jan 10, 2003; Sharon Flescher and Mary Morabito Rosewater, "Dispute Against the Warhol Authentication Board Allowed to Proceed," *IFAR Journal,* Vol. 11, no. 1, (2009) and "New Twists and Turns in the Case Against the Warhol Authentication Board," *IFAR Journal,* Vol. 11, nos. 3&4 (2010).

5 *Simon-Whelan,* Stipulation and Order Dismissing Plaintiff's Claims with Prejudice, No. 07-CV-06423 (LTS) (AJP) (S.D.N.Y. filed Nov. 30, 2010).

6 *Shaer v. The Andy Warhol Foundation for the Visual Arts, Inc.,* Stipulation and Order Dismissing Plaintiff's Claims with Prejudice, No. 10-CV-00373 (LTS) (AJP) (S.D.N.Y. filed Nov. 30, 2010).

"The Board, in formulating its reasons for rejecting the work, appeared to discount or dismiss outright several seemingly credible eyewitness accounts of how the work came about."

statement that, while lamenting that the Foundation spent almost $7 million defending what he described as "nothing more than a blatant attempt to shake down the Foundation," declared the settlement a "complete vindication of both the Foundation and the Authentication Board."

Simon, of course, told a different story: that he had run out of money fighting Goliath, and that his harried lawyer, a solo practitioner outgunned and outmaneuvered by the Board's high-priced legal team, had been forced to withdraw amid the Board's threats to seek personal sanctions against him. "I can't fight this organization," Simon complained at the court hearing, in which he participated via teleconference from London; "it's too big."

UNANSWERED ART HISTORICAL QUESTIONS

From an art historical perspective, it was an unfulfilling ending to a case that had piqued the interest of scholars and the general public alike. To some, the Board's denial of the work, variously referred to as *Double Denied* and *Red Self-Portrait,* seemed at odds with one of Warhol's more important artistic innovations — the move toward "factory" production in which the artist's own "hand" in the work was deemphasized. What is more, the Board, in formulating its reasons for rejecting the work, appeared to discount or dismiss outright several seemingly credible eyewitness accounts of how the work came about. Yet Simon's action, which was grounded in antitrust law — usually the domain of economists and financiers — was perhaps an awkward (although not unprecedented) fit for a dispute over the authorship of a work of art, and thus may have been destined to fail.[7] And, by succeeding early in the litigation to convince the court that the Board's Submission Agreement was unenforceable,[8] Simon may well have roused the proverbial sleeping giant: even if the status of this one work could have been negotiable, it seems that from the Warhol Board's perspective, the enforceability of its Submission Agreement was not, especially given the thousands of requests it has received to authenticate works attributed to Warhol.

Simon's legal theory was that the Board's denial of *Red Self-Portrait* was part of a greater conspiracy to limit the supply of genuine Warhols on the market, thus raising prices and enriching entities related to the Board, which owns authenticated works. As previously reported in detail in *IFAR Journal,* Vol. 11, nos. 1 and 3 & 4, the salient facts are these: In 1965, Warhol gave an associate, Richard Ekstract,[9] an acetate transparency of a 25¢ photograph that Warhol had taken of himself in a Times Square photo booth. It was the same image that had been used by Warhol the previous year for a series of self-portraits on linen, with hand-painted backgrounds, that the Warhol Board accepts as authentic. According to Ekstract, Warhol gave him permission to use the acetate to make an image to be used on the cover of Ekstract's magazine, *Tape Recording,* and to promote an upcoming party Ekstract was throwing to promote the magazine and Warhol's work. Ekstract took the acetate to a printer in New Jersey, which made ten identical silkscreen prints with tomato red backgrounds on cotton duck.

Warhol never personally went to the print shop. Simon alleges, but the Board denies, that Warhol gave the printer instructions over the telephone. Ekstract says

7 See, e.g., *Kramer v. Pollock-Krasner Found.*, 890 F. Supp. 250 (S.D.N.Y. 1995), dismissing a claim by a disappointed owner of a work found not to be authentic by the Pollock-Krasner Authentication Board, alleging that the Board had monopolized the market for Pollock artwork in violation of state and federal antitrust laws.

8 By signing the Submission Agreement, Simon waived his right to sue; however, the court found that the agreement could not shield the Board from an allegation of intentional wrongdoing. *Simon-Whelan v. The Andy Warhol Foundation for the Visual Arts,* No. 07 CV 6423 (LTS), 2009 U.S. Dist. LEXIS 44242 (S.D.N.Y. May 26, 2009). As the Warhol Board explained, its Submission Agreement, and others like it, are important because without them, "qualified art experts will not serve on authentication boards if they are subjected to lawsuits from disappointed art collectors who have considerable financial resources as well as an incentive to second-guess the experts' opinions." IFAR's Authentication Research Service, established in 1969, requires all applicants to sign a submission agreement.

9 Ekstract is now a successful magazine publisher who describes himself as having been Warhol's "tech guru" at the time.

that he brought the final images to Warhol's studio where he approved them but did not sign them. According to Paul Morrissey, who was Warhol's manager in 1965, the cotton duck works were made "under Andy's instruction and supervision." As for the fact that Warhol did not personally make the prints, Morrissey noted that "[t]here was little handwork done by Andy in those years in the creation of any of the silkscreen images."

"Is there, for instance, no middle ground between authentic and 'denied'?"

Regardless of whether Warhol had any direct involvement in the making of the cotton duck prints, he seemed to have accepted them as his own thereafter. Curator Sam Adams Green recalled, for instance, Warhol's "pushing" for the inclusion of one in a 1965 retrospective Green was organizing at the Philadelphia Institute of Contemporary Art, because, according to Warhol, it "exemplified his new technique for having works produced without his personal touch." In 1970, scholar and Warhol confidante Rainer Crone not only included the cotton duck self-portraits in his Warhol catalogue raisonné, but also with, Crone says, Warhol's approval, featured one of them on the book jacket. That particular work, in fact, had been signed by Warhol in 1969, when he dedicated it to his Swiss art dealer, Bruno Bischofberger.[10]

When Joe Simon purchased one of the cotton duck works from an art gallery in 1989 for $195,000, it had already been authenticated by the Warhol Estate (a predecessor to the Authentication Board).[11] A year later, it was further approved when Fred Hughes, then the chairman of the Warhol Foundation, wrote on the left edge of the work, "I certify that this is an original painting by Andy Warhol completed by him in 1964." When, however, Simon submitted the work to the Board in 2001 (he had found a buyer who had conditioned his purchase on Board authentication), it stamped "DENIED" on the back of the work and returned it to Simon. Simon re-submitted the work with additional documentation,[12] but the Board rejected it again and stamped it "DENIED" for a second time.

"It is unfortunate that the Warhol Board does not (and perhaps due to the legal circumstance, cannot) encourage an open art historical debate on these issues."

The Board provided Simon with a letter setting forth its reasons for rejecting the work, which included the several differences between Simon's work and the accepted 1964 self-portraits with hand-painted backgrounds on linen. Among other things, it asserted that it "knew of no independently verifiable documentation from this period in question, 1964 to 1965, to indicate or suggest that Warhol sanctioned or authorized anyone to make the work that you submitted for review." Disappointingly for the art historical record, and curiously, the Board did not indicate why it seemed to discount the recollections of Green, Morrissey and Ekstract, not only as to the manufacture of Joe Simon's work in particular, but also as to Warhol's practices at the time. It also did not explain why its determination, at least in this case, seems to hinge on its belief that Warhol was not personally involved in the silkscreen printing process. As art historian John Richardson pointed out in his letter to the Board, "[s]ince . . . many prominent artists today never actually execute their own work, this policy would seem questionable to say the least."[13]

Moreover, by characterizing Simon's claim as an extortionate "shake down," the Foundation is perhaps being unfairly dismissive of a genuine scholarly debate regarding how authenticity should be determined for works of art for which *the very point* is that they were made by way of mechanical and depersonalized processes. Is there, for instance, no middle ground between authentic and "denied"? Is it really possible that a work that the Board itself admits was "signed, dedicated and dated

10 Warhol wrote on the stretcher: "To Bruno B Andy Warhol 69."

11 Vincent Fremont, the trustee of the Warhol Foundation who authenticated the work in 1987, later explained to *Vanity Fair* that he "authenticated it with a qualifier . . . a letter was attached to the effect that there might be a need to revisit the situation."

12 Among others, Morrissey, Green, and art historian John Richardson wrote letters in support of the work's authentication.

13 John Richardson has been an IFAR Board member for 25 years and is on its Art Advisory Council. He was also a close friend of Andy Warhol's and a eulogist at the artist's funeral.

by [Warhol]" is not authentic; or, in the Board's words, "is NOT the work of Andy Warhol"? Certainly there are other instances in which the art market has been able to distinguish among a continuum of works accepted as authentic, such as between life-time bronze casts and legally sanctioned posthumous ones, or vintage and non-vintage photographs printed from the same negative. It is unfortunate that the Warhol Board does not (and perhaps due to the legal circumstances, cannot) encourage an open art historical debate on these issues.

Of course, the Warhol Foundation decision to take a no-holds-barred approach to fighting Simon's lawsuit was motivated by more than the merits of the work at issue; it believed it needed to discourage a torrent of future litigation. As Wachs noted in the Foundation's statement, while "it would have been easy [for the Foundation] to give [Simon] some money to go away, it was extremely important to fight to uphold the integrity of both the Foundation and the Authentication Board and to not set a dangerous precedent for others who might also be driven by greed and vindictiveness."

And, seemingly in order to tell their side of the story after having, understandably, reserved comment while the lawsuit was pending, the Warhol Defendants have released the reports they commissioned from their expert witnesses. Among the conclusions of their experts — University of California, Berkeley economist, Dr. David Teece; Dr. Reva Wolf, professor of art history at S.U.N.Y, New Paltz; and Dr. John Tancock, a Rodin scholar and former senior vice-president of Sotheby's — was that the Warhol Defendants did not have monopoly power over the market for Warhol artworks. For one thing, they did not sell enough works to constitute a monopoly. For another, the percentage of works turned down by the Board — an average of 18.19% for all categories of works and approximately 26% for prints and paintings — was not unusually high and would not have had the effect of increasing prices. Dr. Tancock also noted that the Board's procedures — including the requirement that applicants sign submission agreements and its practice of not elaborating on its (affirmative or negative) determinations — were typical of other authentication boards (although Tancock noted that the use of a "DENIED" stamp was unique).

"Of course, the Warhol Foundation decision to take a no-holds-barred approach to fighting Simon's lawsuit was motivated by more than the merits of the work at issue . . ."

As for Joe Simon, he appears to take solace in the fact that, while the court case may be closed, the issue as to his work's authenticity — at least as far as Simon is concerned — remains open. "I wish to stress," he said in a statement sent to IFAR and made public, "that I have not agreed to deny the authenticity of *Red Self-Portrait*."

— **SHARON FLESCHER** AND **MARY MORABITO ROSEWATER**
IFAR LEGAL ASSOCIATE

IFAR ART AUTHENTICATION RESEARCH SERVICE

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LOST AT SEA IN THE FINE PRINT

Park West Opponents Face Setbacks in Cruise Ship Auction Litigation

Donald and Joyce Hatter of Lincroft, New Jersey are admittedly not sophisticated art buyers. Yet, between 1999 and 2001, they spent over $54,000 at art auctions — on what they believed were rare and valuable prints by Salvador Dalí, Peter Max and others — while passengers on the Carnival cruise ships *Paradise* and *Triumph*. As the Hatters explain in a lawsuit they filed in 2009 against Park West Galleries, the Michigan-based company that conducted the cruise ship auctions, they believed that their purchases were, as Park West employees allegedly assured them, "good investments" that would "appraise for many times the price paid at the auction." Any further doubts the Hatters may have had about their purchases were allayed, they say, by Park West's promises to provide appraisals and certificates of authenticity.

"They allege that Park West assured them that they were purchasing *valuable* prints, when, in fact, they were purchasing prints with little or no value."

For years, the Hatters believed that their cruise ship purchases were sound investments. All this changed in 2008 when they read a *New York Times* article that raised serious questions about Park West's sales tactics as well as representations it allegedly made about the prints sold at auction.[1]

The Hatters say that after reading *The New York Times* article and doing some independent research, they realized that they had been duped, and that the items they purchased were worth less than a fraction of what they paid. Indeed, after the *New York Times* article appeared, numerous cruise ship art buyers came forward, filing similar suits against Park West in various jurisdictions. Those lawsuits, which have been transferred and consolidated under the heading *In re Park West Galleries, Inc., Marketing and Sales Practices Litigation*,[2] essentially pit buyers' remorse against highly technical defenses grounded in the small print of sales contracts. (So far, as discussed below, the technical defenses seem to be winning.)

AMBIGUITIES IN PRINT TERMINOLOGY

From the art market's perspective, what is intriguing about *In re Park West* is how it highlights ambiguities in the understanding (or misunderstanding) of art print terminology. The *Park West* plaintiffs do not claim to have been victims of a typical "bait and switch," wherein they received prints while believing they had purchased paintings. Rather, they allege that Park West assured them that they were purchasing *valuable* prints, when, in fact, they were purchasing prints with little or no value.

Put differently, the plaintiffs seem to be saying that Park West led them to believe that the prints being auctioned were valuable and rare "fine" or "original" prints,[3] when they were actually mechanical reproductions of works originally done in other media or, at best, restrikes (unauthorized impressions made from original masters). They specifically accuse Park West of selling, among other things: "ink jet" prints that are "little better than . . . poster[s];" works, particularly those attributed to Dalí, with "suspect signatures" or "reproduced pencil signatures;" "multiples from an extraordinarily large series;" and modern restrikes (possibly from original Rembrandt plates).[4]

1 Jori Finkel, "Art Auctions on Cruise Ships Lead to Anger, Accusations and Lawsuits," *The New York Times* (July 16, 2008).

2 No. 3:09-md-02076-RSL (W.D. Wash. filed Aug. 11, 2009). 28 U.S.C. § 1407 provides that "[w]hen civil actions involving one or more common questions of fact are pending in different districts, such actions may be transferred to any district for coordinated or consolidated pretrial proceedings."

3 According to the Website of the Independent Fine Print Dealers Association, www.ifpda.org, "fine" or "original" prints are works on paper that were conceived by the artist to be realized as prints. Processes typically associated with "fine" or "original" prints include engraving, etching, lithography, screen printing, wood engraving and woodcutting. Digital prints are typically reproductions of works in other media and are thus not generally considered fine prints. An exception to this would be where an artist conceives the work specifically to be realized as a digital print.

4 Park West indicates on its Website that, in 2003, it purchased eight original Rembrandt copper plates, which it calls the "Millennium Impression Copper Plates." Between 1994 and 2004, each plate was used to make 2,500 new impressions — 20,000 in all. See http://rembrandt.parkwestgallery.com/rembrandt-millennium-impressions/plates.html. Park West does not indicate whether it intends to manufacture yet more prints from those plates.

Of course, speaking generically, a "print" can be considered any "printed reproduction of an image, [especially] of a work of art."[5] In this sense, calling a photomechanical reproduction of a lithograph a "print" might be accurate, but it is misleading when used in the context of high-priced art, and it is certainly not an "original" fine art print. Thus, Park West's claim on its Website that it "has never sold a work that is not authentic in its nearly 40 year history! . . . . The Park West® Certificate of Authenticity GUARANTEES the work is absolutely genuine" begs the question: Are the prints genuinely rare and valuable, as Park West allegedly leads its customers to believe?

More information is needed in order to answer this question, such as:

- the artist's relationship to, and intent concerning, the making of the print;
- how and when the print was made;
- whether the print is part of a limited edition, and if so, the size of the edition;
- whether the print was signed by the artist;
- whether the work was made during the artist's lifetime and with his consent or approval; and
- whether the master has been destroyed.

5 *Oxford English Dictionary* (2010).

Indeed, some states, including New York, California, Illinois and Michigan, have laws that govern the sale of "fine print" multiples, and those laws typically require that certificates of authenticity include representations regarding those important factors.[6] Unfortunately for the Hatters, who alleged a claim under one of those laws, the Michigan Art Multiples Sales Act ("MAMSA"), their purchases were not made in Michigan, but in international waters. Holding that admiralty law, which conflicted with the Michigan statute, applied, the court dismissed the MAMSA count. Thus, while some state statutes provide protection for fine print buyers, the lack of clarity in terms of how print terminology is used and understood (especially by inexperienced art buyers) can leave purchasers transacting in other states or elsewhere dangerously, and in some cases, literally, at sea.

PARK WEST'S ALLEGEDLY DECEPTIVE PRACTICES

The *In re Park West* cases, while distinct in some ways, tell the same general story: that Park West used unethical and deceitful practices to sell inexpensive prints at grossly inflated prices to unassuming and seemingly unsophisticated cruise ship passengers. Specifically, the plaintiffs allege

6 *See* New York Arts and Cultural Affairs Law § 15.01 et seq.; Cal. Civil Code § 1740 et seq.; Ill. Rev. Stat. Ch. 121-122; Mich. Comp. Laws § 442.321 et seq. Patty Gerstenblith, "Picture Imperfect: Attempted Regulation of the Art Market," 29 Wm. and Mary L. Rev. 501 (1988), n. 90.

"Thus, Park West's claim on its Website that it 'has never sold a work that is not authentic . . .' begs the question: Are the prints genuinely rare and valuable, as Park West allegedly leads its customers to believe?"

that, among other things, Park West:

- held out its employees as art experts when they had no such expertise;
- assured potential buyers that purchases were "good investments" that would increase in value, when that was not the case;
- served free champagne before auctions, thus impairing buyers' judgment;
- used "shill" bidders and phony bids to inflate prices;
- announced exaggerated "investment values" of works prior to auction in order to trick buyers into making unreasonably high bids;
- represented that the works received on land by the buyer would be "unique variations" of the works displayed at auction, when in actuality they were inexpensive duplicates; and
- assured skeptical customers that the cruise lines would not allow Park West to operate if its business were not legitimate.

In addition, plaintiffs complained that Park West's appraisals, while purporting to give "gallery replacement values" were, in fact, done "by Park West alone . . . with-

"The Global Fine Art Registry is a for-profit company headquartered in Arizona, which, despite its decision to drop the "G" in its acronym and confusingly call itself "FAR," is *not* related to IFAR, the nonprofit New York-based organization, founded in 1969, that publishes this journal."

out a generally accepted appraisal methodology."[7] Thus, plaintiffs allege, Park West would routinely appraise the works at bogus, inflated values that would always be "higher than the hammer price." Similarly, "Certificates of Authenticity" supplied after the sale were often signed by Albert Scaglione, Park West's CEO, who is not an art expert, but rather, a former mechanical engineer.

WIND IS (LARGELY) KNOCKED FROM THE PLAINTIFFS' SAILS

The *In re Park West* matter was, initially, an almost unwieldy behemoth consisting of several consolidated individual actions as well as a putative class action. Named defendants included not only Park West and its principles and affiliates, but also the Holland America, Royal Caribbean, Celebrity, and Carnival cruise lines (all of which allegedly shared in the auction profits). The suits alleged, *inter alia*, fraud, unjust enrichment, civil conspiracy, equitable estoppel, a RICO (Racketeering Influenced and Corrupt Organizations) claim, and violations of numerous state consumer protection statutes as well as of the Michigan Art Multiples Sales Act.

Recently, however, the defendants have convinced the court to pare down the case to a much more limited core of players and claims. In particular, in rulings issued on June 25, 2010, the plaintiffs sustained two significant blows, both due to timing issues. First, United States District Judge Robert S. Lasnik dismissed all of the claims against the cruise lines due to the fact that none of the claims against them was brought within the time limits set forth in the cruise ticket sales contracts. Second, the court enforced a nine-month limitations period included in Park West's sales contract. Since none of the claims was filed within the nine-month period, this ruling eliminated, as a practical matter, nearly all of the plaintiffs, with the Hatters being an exception. This is because the Hatters' invoices, which were from a slightly earlier period than the other plaintiffs', apparently did not include a limitations period. In addition, the court deferred ruling on any "potentially dispositive issues" with regard to plaintiffs who purchased art at Park West auctions held on land, because issues relating to them had not been fully briefed.

Judge Lasnik went on to provide guidance as to how the time-barred allegations might have fared if they had been timely filed. The court found, for instance, that the RICO claim was well plead, as were the state consumer protection law claims (with the caveat that existing plaintiffs lacked standing to invoke state laws on behalf of persons not yet named in the litigation). It held that admiralty jurisdiction applied and preempted the Michigan Art Multiples Sales Act claims (except for a claim concerning an auction purchase made on land in Michigan). As for the fraud claim, the court held that it was barred due to a "merger clause" in the sales contract,[8] but that, in any event, it did not provide specific enough allegations as to how the plaintiffs were defrauded as to the works' provenance and authenticity (although the allegations of fraud as to value were sufficient). Finally, the court found that the civil conspiracy claim was adequately plead, but that the equitable estoppel claim failed.

In late November, various amended complaints were filed against Park West, including one by the Hatters on behalf of themselves and a class of Park West purchasers (who are unnamed) whose sales invoices, like theirs, did not contain contractual statute of limitations clauses. Although the Hatters claim that this group is "numerous," it is not clear specifically how many purchasers would qualify for the class. Other amendments focus on

7 As the plaintiffs have alleged, "[a]ccording to the American Society of Appraisers ('A.S.A.'), when an appraiser has an interest in the property appraised (as Park West does here as the seller), it is unethical for an appraiser to accept an assignment to appraise a property . . . unless there is full disclosure to the client."

8 The clause stated that "[n]o verbal agreements or representations shall be of any force or effect unless set forth in writing in this invoice."

land-based sales, or seek to have the sales contracts — and thus the limitations periods — "abrogated in their entirety," on the grounds that they are "unconscionable contracts of adhesion which are unenforceable." Park West has opposed the motions, and the parties have agreed, with the court's consent, to a stay of proceedings pending the court's decision, which may come as early as February 2011.

PARK WEST'S OTHER OPPONENT

While Park West has been battling art purchasers in federal court, it also has had to fight a tenacious foe in the court of public opinion. For years, Theresa Franks, a former paralegal and founder, in 2003, of the Global Fine Art Registry, L.L.C., has been a vocal opponent of Park West, accusing it on her Website of, among other things, "criminal behavior," piracy and involvement in organized crime. (The Global Fine Art Registry is a for-profit company headquartered in Arizona, which, despite its decision to drop the "G" in its acronym and confusingly call itself "FAR," is *not* related to IFAR, the nonprofit New York-based organization, founded in 1969, that publishes this journal.) The Global Fine Art Registry says that it provides methods for tagging and registering fine art. It also conducts "investigative reports" into alleged art frauds. Franks posts articles and videos on the Global Fine Arts Registry Website, often reflecting her opinions of alleged wrongdoers.

In 2008, Park West sued Franks, the Global Fine Art Registry and others for defamation, tortious interference, interference with prospective business advantage, civil conspiracy, and injunctive relief. It claimed, among other things, that the defendants "actively sought out customers of Park West and repeated their defamatory statements to them." Park West further complained that the defendants had "on several occasions" told its customers that the "Dalí artwork they had purchased from Park West was not authentic and urged and otherwise caused such customers to develop ill will, contempt, and distrust of Park West." The case went to trial, and on April 21, 2010, a jury found against Park West and awarded the Global Fine Art Registry $500,000 on its Lanham Act counter-claim.

The victory was short lived. On August 12, the court granted Park West's request for a new trial on the grounds that "persistent misconduct" by Ms. Franks and her counsel in front of the jury "permeated the trial" and prejudiced the jury.[9] In particular, the court took issue with their several attempts to read aloud from or paraphrase inadmissible documents, and to refer to matters excluded from evidence. The court noted that it repeatedly warned the two and even sanctioned Ms. Frank's attorney, but that they did not seriously heed the court's warnings.

Franks petitioned the court to reconsider its ruling and reinstate the jury's verdict. On December 8, 2010, the court refused to reinstate the verdict, but did certify the case for an interlocutory appeal on a narrow procedural issue: whether Park West's failure to seek a mistrial before the case went to the jury prevented it from seeking a new trial after the verdict. The district court has stayed its proceedings while it awaits the Sixth Circuit Court of Appeals' guidance on that question.

Park West, in the mean time, has managed to keep its head above water. In addition to its recent legal successes, it continues to conduct art auctions at sea and on land (although, in May, Royal Caribbean cruises ended its relationship with Park West). It also operates a self-described "awe-inspiring," 63,000 square foot "Greco-Roman" styled gallery in Southfield, Michigan, replete with stone columns and granite walkways. In defending his company's practices, Scaglione has emphasized that, "fine art should be accessible for viewing, and for purchase, by the many millions of people who do not live in gallery-rich cities like New York or Los Angeles."[10] While that may be true, it remains to be seen whether Park West's inventory should be considered "fine art" at all.

— **MARY MORABITO ROSEWATER**
IFAR LEGAL ASSOCIATE

9 *Park West Galleries, Inc. v. Global Fine Art Registry, LLC*, No. 08-12247, slip op. (E.D.Mich. Aug. 8, 2010).

10 Albert Scaglione, Letter to the Editor, *The New York Times* (Aug. 10, 2008).

THE PICASSOS GAVE *WHAT* TO *WHOM*?

Picasso's Electrician Reveals Cache of Unknown Works
Criminal Investigation Underway

In a case that, to paraphrase Alice, gets curiouser and curiouser, French authorities have launched a formal judicial investigation into the crime of "recel" — possession of stolen goods — against Picasso's former electrician, who mysteriously turned up in 2010 with a reported cache of 271 works by the artist. Most of the works were unknown, even to the artist's heirs, and span an artistic period from about 1900-1932.

The electrician, Pierre Le Guennec, now 71 and retired, worked for Picasso off and on for about three years, just before the artist's death in 1973. Among other things, he installed a security alarm in the artist's Villa La Californie, in Cannes. He came into possession of the works, he says, at a date he can't precisely remember, but around 1971, when Jacqueline Picasso, the artist's wife — or, perhaps, it was Picasso himself, Le Guennec cannot remember and the story has changed — presented him with a box that she was ready to discard. He insists that he didn't know the contents or value of the box at the time and stored it — for forty years! — in the garage attached to his home in Mouans-Sartoux (a small town located between Mougins and Grasse), in the South of France.

FIGURE 1. Pierre Le Guennec in front of his home and the garage where the Picassos were stored. Photo: Getty Images/ Valery Hache.

The works came to light after Le Guennec, suffering from prostate cancer and ostensibly wanting to put his estate in order for his two children, wrote the Picasso Administration in Paris last January asking to have the Picasso works "authenticated." (See "Timeline" below). He sent 26 black and white photos, of not very good quality, supplemented by 69 photos in March and April, for review. Claude Picasso, the artist's son, who heads the Picasso Administration, apparently at first believed the inquiry to be a hoax. But he later asked Le Guennec to come in person with the works.

In September, Le Guennec travelled with his wife to Paris and met with Claude and the family's attorney in the office of the Picasso Administration. Claude examined the works and decided that they were authentic (although an absolute statement as to authenticity was withheld pending further examination). His conclusion was based not just on quality, but on the variety of Picasso styles and techniques that no one, he believed, could have mastered, together with the presence on some of the works of inventory numbers that were known to very few people and were kept by Picasso for only a short time around 1935, when he was preparing to divorce his first wife, Olga (a divorce that never materialized).

If the works were authentic, however, Claude believed they could not have been legitimately obtained. It was unheard of, he later said, for his father, although known for his generosity, to give away such a large number of works. His father was still alive in 1971 and would never have allowed it; nor, he believed, would Jacqueline have done so. She might have given a small gift, but not something this substantive or art historically important. Moreover, had Picasso made a gift of the works, they would be signed and dedicated, and all but one of Le Guennec's trove, reportedly, are unsigned and none is inscribed.

After his visit, Le Guennec returned to the South of France with the works. Meanwhile, Claude met with his relatives — the five other Picasso family heirs and Picasso's step-daughter — and decided to ask authorities in the city of Grasse to bring a "criminal complaint against x" (persons unknown) for theft and "recel." The investigation was led by the OCBC (Office central

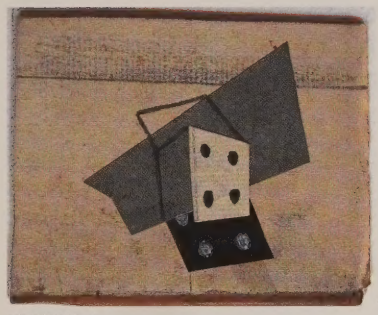

FIGURE 2

FIGURE 3

FIGURE 4

FIGURES 2-6. Five of the nine Pablo Picasso still-lifes in the Le Guennec trove. FIG. 2. *Drawing of Dice;* FIG. 3. *Still-Life, Glass and Sand;* FIG. 4. *Collage – Pipe and Bottle;* FIG. 5. *Mandolin* (?); FIG. 6. *Still-Life with Glass.*
© 2011, Estate of Pablo Picasso/ Artists Rights Society (ARS), NY. Images: AP.

de lutte contre le traffic des biens culturels), France's art theft unit, which, on October 5, confiscated the works from Le Guennec and stored them in what is said to be a secure and climate controlled OCBC facility in the city of Nanterre (about 7 miles west of Paris). A month later the story broke in the French newspaper, *La Libération,* which has continued to provide the most substantive coverage.

FIGURE 5

THE NEW-FOUND WORKS

A list of works provided by *La Libération* suggests that they date back to Picasso's earliest years as an artist in Paris and extend to the early 1930's. They include, most significantly, 9 Cubist still-lifes from around 1912, which are relatively rare in Picasso's enormous output and highly prized; two notebooks containing 97 drawings; a Blue Period watercolor; studies of a hand, painted on canvas (which relate to other works from c.1920); drawings of Picasso's first wife, Olga; and 15 studies for his *Three Graces*, a monumental 1923 oil and charcoal painting in the classical style. **(FIGS. 2–11 AND COVER).**

ORIGIN OF THE TROVE

Although the works have never been publicly seen before or published, their existence (but not their whereabouts) was not entirely unknown. John Richardson, the Picasso scholar and biographer (and for more than 25 years a member of IFAR's Board of Directors), told IFAR that he believes the works come from a group of 70 portfolios of Picasso works, of which he (Richardson) personally had reviewed 10.

As Richardson wrote in *Vanity Fair* (December 9, 2010), and also told IFAR, Picasso had been obliged to move all his belongings from his studio and apartment in Paris to his home in Cannes as a result of a new French regulation that prevented people from having multiple residencies. He added:

FIGURE 6

"Douglas Cooper, the celebrated British Picasso collector, and I happened to be visiting Picasso when this vast shipment arrived. He asked us to help him go through some of the portfolios. The next two days were spent sitting on the floor of the principal studio rediscovering these treasures. He hadn't looked at most of the material for 20 or 30 years, Picasso said, and the contents were as much a surprise to him as they were to us. The contents, which had never been photographed or catalogued, were exceedingly varied — and anything but systematically organized. Virtually everything was on paper . . . ."

(*Vanity Fair*, "The Curious Case of the Le Guennec Picassos")

Richardson went on to say that as soon as he "heard about Le Guennec's Picassos, [he] realized they had to have been part of this horde that had arrived in Cannes, more than 50 years ago."

When IFAR asked whether the discovery of the cache of works would revise his understanding of Picasso, Richardson responded: "Not in the least," as he was already aware of them. Moreover, since Douglas Cooper, Picasso and Jacqueline, are now all gone, Richardson added, he is the only person still alive who viewed the works at that time and was aware of their existence.

"When IFAR asked John Richardson whether the discovery of the cache of works would revise his understanding of Picasso, he responded: 'not in the least,' as he was already aware of them."

THE ELECTRICIAN AND THE CHAUFFEUR

Le Guennec's cache of Picassos is not the first time an authentic but unexplained group of works by the artist has turned up. In the 1990s, the heirs of Picasso's chauffeur, Maurice Bresnu (who worked for Picasso from 1965-1973 and died in 1991), put on the market a large group of Picasso sketchbooks, individual drawings and ceramics, mostly dating to the end of Picasso's career, which were said to have been gifts by the artist and, later, his widow, to Bresnu. Some of the collection had already been sold by Bresnu beginning in 1986. In November 1998, when a large group of the Bresnu collection was sold at Christie's, John Richardson noted in the catalogue (p. 6) that the "existence of such an enormous cache of unpublished [Picasso] work was [at first] met with skepticism." But some people who knew how generous Picasso could be "were not surprised by this largesse," and the sale went forward. Richardson told IFAR, however, that, as it is now confirmed that Bresnu is a cousin of Le Guennec, doubt can again be cast on the legitimate acquisition of both Bresnu's and Le Guennec's caches.

By coincidence, another large group of works from the Bresnu collection was supposed to go on sale at Salle Drouot in Paris in December. The sale, "Picasso et ses Amis" (9 December 2010), was said to contain about 100 Picasso books, photos, ceramics, and drawings that belonged to Bresnu and were inherited by his wife, who died a year ago. As reported in *La Libération* (7 December 2010), the sale was

TIMELINE

1970's

C. 1970–73
Pierre Le Guennec, an electrician, does assorted jobs for Picasso, including, he says, installing a security alarm.

C. 1971
Jacqueline Picasso purportedly gives Le Guennec a box containing 271 small Picasso works. Le Guennec stores the box in his garage.

1973–86
Le Guennec continues to do odd-jobs for Jacqueline until her death

2010

JANUARY 14, 2010
Le Guennec writes to the Picasso Administration in Paris about authenticating the works and sends 26 photos.

MARCH–APRIL 2010
Le Guennec sends additional black and white photographs to the Picasso Administration.

SEPTEMBER 9, 2010
Le Guennec and his wife visit the Picasso Administration and show the works to the artist's son, Claude, in the presence of the family's attorney. The Le Guennecs leave Paris with the works the next day, but give additional photographs to the family.

FIGURE 7

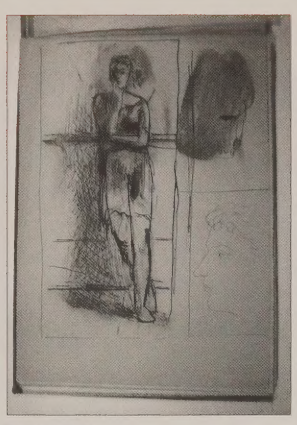

FIGURE 8

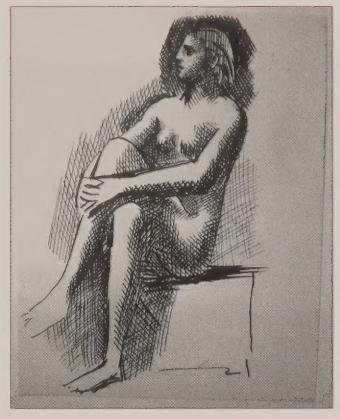

FIGURE 9

FIGURE 10

FIGURES 7-10. Four of the Pablo Picasso drawings in the Le Guennec trove. FIG. 7. *Horse;* FIG. 8. *Woman;* FIG. 9. *Seated Nude;* FIG. 10. Drawing of a *Woman,* from a notebook said to date to 1921.
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postponed by her heirs because of the "timing" ("hasard du calendrier") — perhaps a reference to the investigation into the Le Guennec cache and a fear of taint by association.

THE CRIME OF RECEL

A formal judicial inquiry for recel was launched in December. While the statute of limitations for theft has long since expired, the crime of recel continues so long as the allegedly stolen works are in Le Guennec's possession. Proving a crime has taken place, however, will not be easy. For "recel," authorities have to show "knowing" possession of stolen works, and right now, the only living eye witness to the gift — or theft — is Le Guennec.

Meanwhile, Le Guennec protests his innocence. He reminds people that he came forward with the works voluntarily and met with Claude Picasso and the press without a lawyer. In a December 15 appearance on French television, he explained how he acquired the works: "One day, as he was leaving the Picasso home, "Madame [Picasso] called him, held out a package, and said: 'This is for you'." He didn't bother to examine the contents of the box, as "it was not for sale," so he stored the package inside a trunk in the garage of his home, and left it there.

(continued→)

2011

SEPTEMBER 23, 2010
The Picasso heirs ask the authorities in the city of Grasse to bring a "criminal complaint against x" for theft and "recel."

OCTOBER 5, 2010
The OCBC confiscates the works from Le Guennec, stores them in a facility in Nanterre, and brings the Le Guennecs in for questioning. A day later, the couple is released. They are not indicted.

NOVEMBER 29, 2010
The Paris daily, *La Libération,* breaks the story.

DECEMBER 7, 2010
The local Magistrate's Office in Grasse begins a preliminary investigation into the crime of "recel."

JANUARY 2011
The attorney for the Le Guennecs reveals that a formal judicial inquiry began at the end of December.

"Proving a crime has taken place will not be easy. For 'recel,' authorities have to show 'knowing' possession of stolen works, and right now, the only known living eye witness to the gift — or theft — is Le Guennec."

In another interview, he suggested that, perhaps, Jacqueline gave him the box not remembering its contents. Of course, that wouldn't explain why he stored it for 40 years, purportedly unexamined.

FIGURE 11. PABLO PICASSO, *Study of a hand.* Part of the Le Guennec trove. © 2011, Estate of Pablo Picasso/ Artists Rights Society (ARS), NY. Image: AP.

Guennec's wife, Danielle, has accused Claude Picasso of putting "a knife in our back; [he's] taken us to court, and accused us of theft. He'll have to prove it."

— SHARON FLESCHER

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BREAKING — AND BAD — NEWS FROM CAIRO

For those of us involved, or simply interested, in ancient Egypt, the recent reports from Cairo in the wake of the public demonstrations and government ouster are, to put it mildly, disquieting. The first news from the Egyptian Museum was encouraging — the break-in and looting were confined to the gift shop and some minor vandalism in the galleries. Assurances were given by the authorities that the damage could easily be repaired and the artifacts put back on view. Now we are being told that some important objects are missing and presumed stolen. Among them, a quartzite head of an Amarna princess and parts of the gilded wood statue of Tutankhamun being carried by a goddess. Both are priceless and premier holdings of the museum, and represent a great tragedy for all. A limestone portrait of Akhnaten holding an offering table **(FIG. 1)**, reported missing, has now been found — in the garbage near Tahir Square.

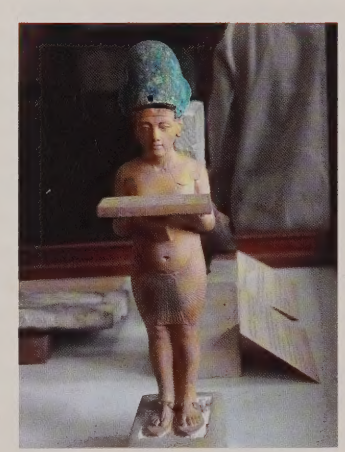

FIGURE 1. Limestone portrait of Akhnaten holding an offering table, reported missing from the Cairo Museum, has been found. Photo: By Tutincommon

We are also told about damage to other objects — the upper part of the statue of Tutankhamun holding a harpoon **(FIG. 2)** is missing, broken off at the legs, and the statue of Tutankhamun standing on a panther suffered damage to the king, whose left arm was broken

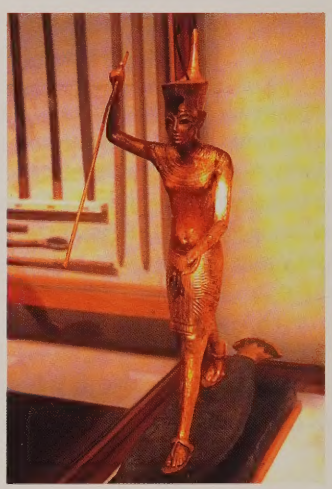

FIGURE. 2. Gilded wood statue of Tutankhamun holding a harpoon, Cairo Museum. Shown before the upper part of the body went missing. Photo: Frank Rytell

off, while the panther was broken at the legs **(FIGS. 3 & 4)**. I fear there is more bad news to come since it is not likely that a complete inventory has yet been taken. It seems possible that there were at least two incidents — the initial entering and vandalism, and then a theft by knowledgeable thieves.

Right from the onset of the turmoil in Egypt, there were rumors of looting in storehouses associated with excavations in various parts of Egypt, as well as some damage to the monuments. Confirmation of this was slow in being issued, although, sadly, it has now come, but the current state of confusion and lawlessness in Egypt made such reports plausible. These events are a great disaster for a country so dependent on tourism as well as for Egyptology. We can only hope for the best while waiting for Egypt to recover from this unprecedented upheaval

As *IFAR Journal* goes to press, the fate of Zahi Hawass, the charismatic Minister of Antiquities (a newly created ministry), is uncertain. There is no doubt that he has done a superb job in preserving Egypt's past and of encouraging scientific inquiries, but he may be toppled by the growing calls for change at the top. A photo of a substantial group of protesters in front of his office has been circulating on the Internet presaging the increasing pressures on those considered part of the old regime. Hawass, himself, has threatened to resign. He would be missed, however, as he has the ability and experience to be in charge of the huge and complex organization, formerly know as the Supreme Council of Antiquities. It will take a firm and informed hand to return things to normalcy.

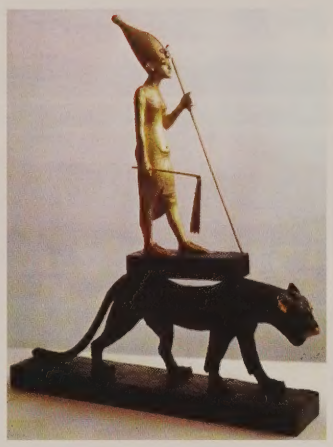

FIGURE 3. Tutankhamum standing on a panther, Cairo Museum. Shown before damage sustained in February 2011.

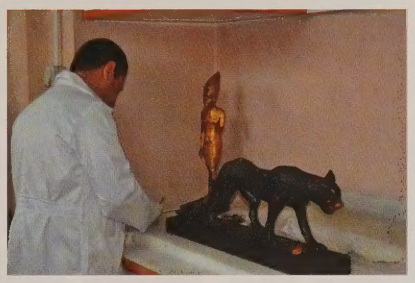

FIGURE 4. Tutankhamum standing on a panther, after the left arm of Tut was severed and the panther's legs were broken. Photo: Website of Egyptian Minister, Zahi Hawass.

In the meantime, it is a priority for all to be extremely vigilant in ensuring that none of the stolen material even reaches the art market or private collectors. These objects will be very difficult to sell, but one never knows. Hopefully they will be returned, or possibly ransomed back to their rightful owner.

— JACK JOSEPHSON
EGYPTOLOGIST; IFAR CHAIRMAN

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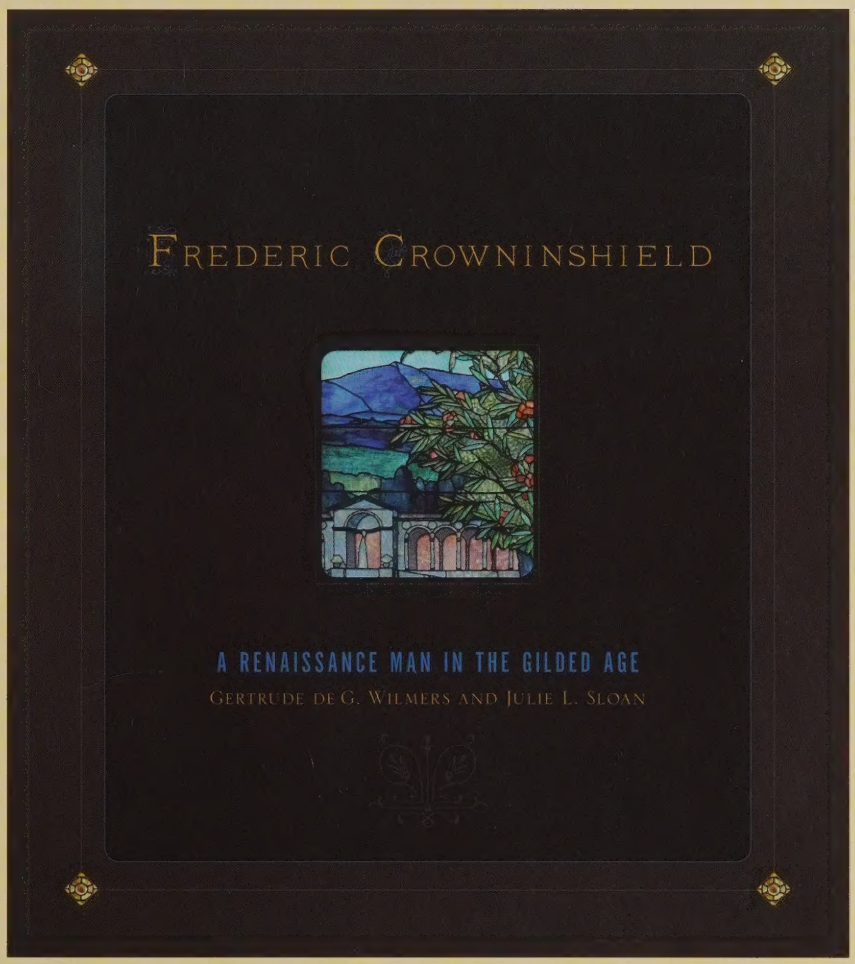

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NOT A MOMENT TOO SOON: A NEW PROVENANCE RESEARCH TOOL UNTANGLES ERR RECORDS

NANCY YEIDE*

In November 1998, the Washington Conference on Holocaust Era Assets endorsed eleven principles for dealing with Nazi-looted art, the first of which stated that, "Art that had been confiscated by the Nazis and not subsequently restituted should be identified." Since then, museums, dealers, auction houses and governments have struggled to implement this misleadingly simple directive. Identifying looted, let alone unrestituted, objects requires a complex knowledge of art history, politics, the history of collections, and the location of archival materials that document the movement of art, all this in addition to traditional provenance research, a specialized methodology in its own right. One major obstacle to identifying Nazi confiscated art has been the inaccessibility of archival documents, due not only to privacy or other legal restrictions, but also to limited intellectual access to relevant materials.

Legal restrictions remain a particular stumbling block. There has not been much progress in facilitating access to documents restricted by national privacy or data protection laws. Such progress can only occur through state-sponsored and supported legislative or other changes to restrictions. The second Washington Principle recognized the reality of restricted access in its moderated statement that, "Relevant records and archives should be open and accessible to researchers, in accordance with the guidelines of the International Council on Archives." Likewise the Terezin Declaration, signed in June 2009 by 46 nations at the end of the Prague Holocaust Era Assets Conference, included a caveat in its endorsement of a "coherent and more effective approach by States and the international community to ensure the fullest possible, relevant archival access with due respect to national legislation." While the thorny issue of complete access to restricted materials may never be fully resolved, there has been a good deal of progress in the past twelve years in making non-legally-restricted archival material and other documentation easier to find and navigate.

Greg Bradsher's *Holocaust-Era Assets: A Finding Aid to Records at the National Archives at College Park* (1999) provided researchers with a 700 page roadmap to the maze of U.S. government documents in the National Archives in which World War II provenance information might reside. This included not only the voluminous records of the United States Occupation Government that oversaw the recovery and restitution effort in Germany, but also those of less obvious sources, such as the Departments of Justice, Treasury and State. Bradsher's Finding Aid dealt with all types of assets, including art and cultural property, gold, insurance, financial instruments, real estate and other property. In 2001 the American Association of Museums published *The AAM Guide to Provenance Research,* which provided a specialized handbook to the U.S. records relevant to art and cultural property, as well as a survey of major international archival resources.

The introduction of on-line finding aids to materials both in the United States and Europe has further facilitated archival research by allowing researchers to prepare for their visits to repositories. Travel costs to archival centers worldwide, however, as is often necessary in provenance research, remain prohibitive. One answer has been the digitization of relevant documents coupled with searchable access points. The past few years have seen limited but important progress in that direction. In 2009, the Deutsches Historisches Museum of Berlin

* Nancy H. Yeide is head of the Department of Curatorial Records, National Gallery of Art, Washington, D.C., where she has been responsible for WW II-era provenance research. She is co-author of the *AAM Guide to Provenance Research* (AAM, 2001) and author of *Beyond the Dream of Avarice: The Hermann Goering Collection,* (Dallas: Laurel Publishing, 2009).

hosted on its Website the results of a cooperative project of several German agencies to make available a searchable database (in English and German) of the Munich Central Collecting Point property cards documenting objects recovered and processed through that facility after the war (http://www.dhm.de/datenbank/ccp/). Also in 2009, the United States National Archives expanded its relationship with the subscription Website Footnote.com to provide searchable digital access to its vast store of archival documents pertaining to looted cultural property (http://go.footnote.com/holocaust). To date, this includes the records of the Wiesbaden Central Collecting Point and the records created by Ardelia Hall, the State Department's post-war Fine Arts and Monuments Advisor;[1] additional materials will be made available in the near future. National Archives documents on Footnote.com are available for a fee for the first five years after their initial release, but are free thereafter. The database is accessible for free immediately, however, on site at the Archives in Washington and in its regional branches across the U.S. In April 2010, Berlin's Free University unveiled its Internet database documenting the fate of more than 21,000 artworks condemned as "degenerate" by the Nazis and seized from German museums in 1937 (http://www.geschkult.fu-berlin.de/e/db_entart_kunst/).

FIGURE 1. Hermann Goering examining two looted Matisse paintings in the Jeu de Paume, December 2, 1941. Photo: Archives des Musées Nationaux.

1 Ardelia Hall headed the State Department's Office of International Information and Cultural Affairs.

THE ERR

The latest on-line resource to aid in the identification of Nazi-looted art is the database of confiscated art objects processed through the Jeu de Paume museum in Paris by the Einsatzstab Reichsleiter Rosenberg (http://www.errproject.org/jeudepaume/). A project of the Conference on Jewish Material Claims Against Germany (Claims Conference) with technical support provided by the United States Holocaust Memorial Museum, and six years in the making, this resource makes available Nazi records and photographs of more than 20,000 individual art objects confiscated during the Nazi era.

"The latest on-line resource to aid in the identification of Nazi-looted art is the database of confiscated art objects processed through the Jeu de Paume museum in Paris by the [ERR]. . . . [It] makes available Nazi records and photographs of more than 20,000 individual art objects . . ."

A special Nazi task force headquartered in Paris, the Einsatzstab Reichsleiter Rosenberg (ERR) was one of several Nazi units involved in the confiscation of art and cultural property. Beginning in the fall of 1940, and through August 1944, the ERR used the Jeu de Paume in the Tuileries Gardens as a center for processing confiscated collections. The ERR seized over 200 private collections, including dealer stock, from Jews and other victims in German-occupied France and Belgium (the ERR was not active elsewhere in Western Europe).

After the incoming loot was catalogued at the Jeu de Paume, most of it was sent to special ERR art repositories in Bavaria and Austria, including the castle of Neuschwanstein and the former Cistercian Abbey of Buxheim. As the war wore on and turned against the Germans, some of the loot was transferred to the salt mine of Alt Aussee in Austria, which also received shipments of German owned and confiscated art from Munich and elsewhere. Some of the art objects from the Jeu de Paume went to enrich the collections of Nazi leaders, including Hitler and Goering (FIG. 1). The latter made good use of objects he didn't care to collect himself; through his staff, he would trade ERR-confiscated items to collabora-

Cultural Plunder by the Einsatzstab Reichsleiter Rosenberg:
Database of Art Objects at the Jeu de Paume

« Return to Search Results

Search Results: « Previous Record | Next Record »
Displaying 1 of 1

ERR Collection Name: (Unbekannt/UNB) -Unk.

ERR Inventory No.: Unb. 331

Artist: Camille Pissarro

Medium: Paintings

Title: Ansicht des Louvre, Paris 1900.

Description: Camille Pissarro
1830-1903
Ansicht des Louvre, Paris 1900.
Blick aus einem Fenster der Rue de Rivoli auf das Gebäude des Louvre, die Tuileriengärte und das Caroussel.
Öl auf Ldw.
Querformat
Sign. unten links: C. Pissarro 1900.
Verbleib: HG

Pre–1
Provenance a
Arc
Repatria
Imag

DECLASSIFIED
Authority NND 775057
By dlc NARA Date 9/8/01

	KÜNSTLER HERKUNFTSLAND	DATIERUNG	INVENTAR-NR.
LEICA-PHOTO	Camille Pissarro		UNB 331
	LEBENSZEIT 1830 - 1903		

FILM-NR. / BILD-NR.	GROSSFOTO	AUFBEWAHRUNGSORT	WERT	INV. NR. ALTE SLG.	AUS KISTE NR.

THEMA BZW. GEGENSTAND

BESCHREIBUNG

Ansicht des Louvre, Paris 1900.

Blick aus einem Fenster der Rue de Rivoli auf das Gebäude des Louvre, die Tuileriengärten und das Caroussel.

MATERIAL GRÖSSE	GERAHMT FASSUNG	BEZEICHNET SIGNATUR	VERBLEIB
Öl auf Ldw. Querformat.		Sign.unten links: C.Pissarro 1900.	H G

ZUGANGSTAG IN PARIS : IM REICH :	STANDORTWECHSEL	ZUSTAND BEHANDLUNG (AUCH UMSEITIG)	BEMERKUNG HERKUNFT SCHRIFTTUM (UMSEITIG)

NARA 14916-17613.png

FIGURE 2. An Advance Search for paintings by Camille Pissarro in the ERR Jeu de Paume Database yields 9 matches. The digitized ERR catalogue card above shows the first of the 9: *Ansicht des Louvre, Paris, 1900,* Inventory Number: UNB 331 (Unbekannt 331), indicating that the collection from which it was taken was unknown. But, in fact, the painting came from the Bruno Stahl collection, to which it was restituted in 1947.

tor dealers from whom he received paintings more to his personal liking.

As the Allies gained ground — even before the war ended — the loot was discovered at Alt Aussee, Neuschwanstein, Buxheim and hundreds of other depots across Germany and Austria. The recovered hoard was eventually assembled in a number of "Collecting Points" where the so-called Monuments Men (Monuments, Fine Arts and Archives, or MFA&A, Officers) researched and catalogued items in order to facilitate their return to their rightful owners. The Central Collecting Point in Munich was the most important collecting point for art objects that had been processed by the ERR in the Jeu de Paume. To expedite the process, Allied postwar policy regarding stolen property was to repatriate it to the governments of nations where the thefts had occurred. Those governments were then responsible for the restitution to individuals.

FIGURE 3. CAMILLE PISSARRO. ***Place du Carrousel, Paris, 1900.*** **Oil on canvas. 54.9 x 65.4 cm. Ailsa Mellon Bruce Collection, National Gallery of Art, Washington. This is the same painting as the looted work on the catalogue card in Fig. 2. In 1949, it was sold to Ailsa Mellon Bruce, who bequeathed it to the National Gallery. Image courtesy National Gallery of Art, Washington.**

"The core of the new database is a series of catalogue cards (in German) prepared by the ERR . . ."

THE JEU DE PAUME DATABASE

The core of the new database is a series of catalogue cards (in German) prepared by the ERR at the Jeu de Paume (the original cards are housed at the United States National Archives).[2] Incoming objects were assigned unique alpha-numeric codes, reflecting the name of the family or business from whom the work was confiscated. The ERR cards themselves have been digitized and descriptive information entered into searchable fields, such as artist, title of artwork and medium, owner name, ERR code, etc. Individual records have been supplemented with information not always available on the cards, such as the names of the repositories to which objects were sent from the Jeu de Paume, and recovery, repatriation and restitution information. Search results lead to individual records with a digital image of the ERR card and photographs of the artwork, if available **(FIGS. 2 and 3).**

The database also includes objects brought to the Jeu de Paume as part of the "Möbel-Aktion" project that stole furnishings from the homes of Jews who had fled or were deported. The highest quality items were turned over to the ERR; these included furnishings, tapestries, glasswork, Asian ceramics, coins and various other types of decorative object. At the Jeu de Paume, the link between Möbel-Aktion objects and the homes from which they had been confiscated was lost. As research efforts in museums and elsewhere move beyond paintings and sculpture, the decorative arts records available on the ERR database will become particularly useful.

Serious users of this database should view it as they would any actual archival document — that is, as a starting point for further research. Information from the ERR cards and database should be corroborated through other archival resources, as the very nature of an archival record is that it may be incorrect. For example, a number of objects confiscated from Paul Rosenberg's gallery and private collection were assigned the ERR code "Unbekannt," meaning source unknown, despite having been catalogued as from Rosenberg before being sent to the Jeu de Paume. This is often the case with more modern

2 In addition to material from The United States National Archives and Records Administration (NARA), the database draws on material from the Bundesarchiv (The German Federal Archives) and France Diplomatie: Diplomatic Archive Center of the Ministry of Foreign and European Affairs.

works, and may have been a deliberate nod to the Nazi elite's lack of enthusiasm for such art, or merely a reflection of the sometimes chaotic conditions in the Tuileries Gardens as truckloads of art arrived. Information on the ERR cards and database may also be incomplete, but the fact that a document does not exist does not prove a transaction did not occur. For example, as noted on the Website, an undetermined number of looted items were never catalogued at the Jeu de Paume, although some might have been inventoried elsewhere when confiscated, such as in bank vaults.

"Information from the ERR cards and database should be corroborated through other archival resources, as the very nature of an archival record is that it may be incorrect."

A note of caution: information on the database regarding repatriation (to country of origin) or restitution (to the owner) should not be considered complete, as the Website clearly points out: "The absence of information concerning the repatriation and/or restitution of an item does not imply that repatriation and/or restitution has not already been made." Information concerning the repatriation and/or restitution of an object comes from the Bundesarchiv in Koblenz, Germany and the Direction des Archives, Ministère des Affaires étrangères et européennes, Paris. Consequently, restitution information is heavily weighted towards those objects that were restituted immediately after the war through the best documented path, that of the Munich Central Collecting Point. When known, the Munich Central Collecting Point number has been added to the ERR database, and this is extremely helpful for researchers. However, not all of the recovered Jeu de Paume-processed loot was repatriated or restituted via the Collecting Point system. Some of the objects recovered in Buxheim and Neuschwanstein were shipped directly back to France, and were to be assigned Collecting Point numbers in a planned orchestration, but it is unclear if this ever occurred, particularly in the case of the Buxheim repository. Information on the database indicating that these objects were, indeed, repatriated, is particularly useful for researchers who may not have access to other archival materials documenting the Buxheim or Neuschwanstein shipments.

Nonetheless, it cannot be overstated that an object not marked as repatriated or restituted on the ERR database may still have been so, possibly through less official channels, such as the trove of modern works recovered in Switzerland shortly after the war or those recovered on the art market in Paris. Moreover, items returned to rightful owners since the massive post-war recovery effort, even very recently, are not represented as such in the database. The project designers clearly chose not to capitalize on the significant amount of scholarship that has become available in the last decade that could have contributed additional restitution information.

As the explanatory text on the Website makes clear, the database is not to be considered complete. It would have been helpful, therefore, to have included a mechanism for users to send in additional information (and supporting documentation), in particular regarding restituted pictures, given the importance of this information. The database could then form the basis of a genuine dialogue leading to a more complete understanding of the fate of the looted objects it records. Instead, the press release accompanying the launch of the database announces that 10,000 of the objects listed are "unrestituted." It is not clear, however, how that number was derived. Whatever the source, publicizing a number of unrestituted objects is unnecessarily misleading, especially given the multiple caveats on the Website itself concerning the completeness of its restitution information.

Museums, dealers, collectors, auction houses and others are still grappling with the cost of provenance research in fulfillment of the Washington Principles, and funding has not been forthcoming either from government or private sources. The creation of the ERR database is a welcome addition to a growing body of electronic resources available to assist in identifying art that was confiscated by the Nazis and may not have been restituted. However, like any resource based on archival documentation, it must be used critically in order to truly serve the purpose for which it was created.

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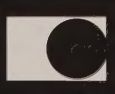

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NAGPRA'S 20TH ANNIVERSARY:

REFLECTIONS ON THE WATERSHED LAW IMPACTING THE COLLECTING OF NATIVE AMERICAN OBJECTS

SUSAN BENTON BRUNING*

"I wanted a rattle and moccasins.
And then the collecting bug seized me and I was lost."

— George Gustave Heye (1874–1957)

Since the earliest days of contact between indigenous occupants of North America and European arrivals, collectors like George Heye have found themselves intrigued and seduced by the artistic cultural expressions of Native peoples. An art object is acquired for many reasons -- the reputation of the artist, the importance of the work, its sheer beauty, its investment potential, or its power to move the collector. All of these reasons seem to have played a role in the collecting of Native American objects, some of which have made their way around the world and found homes in great museums, such as the British Museum's collection of Northwest Coast objects acquired in the late 19th century by James Cook and George Vancouver.

"Twenty years after its enactment, NAGPRA continues to wield great influence over the fate of Native American cultural objects in public and private collections."

Native American art and antiquities continue to pass through the domestic and international marketplace. While many objects were created as works of art destined for the trade, many others were created and used for important cultural purposes and never intended for the collecting world. In particular, contemporary Native groups stress that many objects created for sacred or ceremonial purposes, and certainly objects buried with the deceased, were intended to remain strictly within the cultural boundaries of the communities that used and valued them.

For most of the post-contact period, objects were removed from their contexts and introduced into the art marketplace without legal consequence due to a dearth of laws protecting them. Various laws enacted throughout the 20th century tightened controls on the acquisition and trade in Native American cultural items; however, with the enactment of the Native American Graves Protection and Repatriation Act (NAGPRA) in 1990, a new era truly began.

Twenty years after its enactment, NAGPRA continues to wield great influence over the fate of Native American cultural objects in public and private collections. The following discussion will present a brief overview of cultural and political concerns that led to the enactment of this landmark legislation and the current state of key issues addressed by the law.

• • •

* Susan Benton Bruning,, J.D., M.A., is Assistant Professor of Arts and Law in the Meadows School of the Arts, Southern Methodist University. She is also a Ph.D. candidate in anthropology at SMU and Chair of the Repatriation Committee for the Society for American Archaeology. In October 2010, Professor Bruning testified at an oversight meeting on NAGPRA organized by the House Committee on Natural Resources.

During most of the 20th century, anthropological concerns took precedence over aesthetic ones in developing laws and policies affecting the collecting and exhibiting of Native American objects. The research community valued Native American cultural objects in large part for what they told us about the country's pre-contact past, to be preserved and studied in order to educate the non-Native populace about Native cultures. Worldviews collided, however, as European notions about preserving and collecting antiquities clashed with Native peoples' concerns about protecting burial grounds and caring for cultural items. Western conceptions of historic preservation, for example, did not accommodate indigenous interests in allowing some objects to succumb to the natural elements, such as Yup'ik masks discarded after use or Zuni war gods deliberately placed in the open landscape to serve their cultural purpose.[1]

Increased contact between Native and non-Native people spurred marketplace demand for items from Native cultures. Although objects began to be mass produced to feed the hunger of the early marketplace, demand continued for rare, "authentic" collectibles. The Indian Arts and Crafts Act, enacted in 1935 and substantively revised in 1990, focused on authenticity. One of its goals was to stimulate the market for authentic Indian-made objects.[2] As was often the case throughout the larger art marketplace, questions about authenticity were of ongoing interest while questions about source were rarely raised. In the last decades of the 20th century, however, stakeholders increasingly voiced concerns about larger historical, legal, political, and cultural contexts within which such objects were allowed to circulate through the marketplace and make their way into public and private collections.[3]

Prior to NAGPRA's passage on November 16, 1990, tribal representatives and scholars from across the nation testified to Congress about the need for federal legislation to combat concerns, such as: 1) The rampant illegal excavation of graves, often driven by the search for ancient and authentic Native American goods; and 2) The large number of Native American human remains in institutional collections, many of which came from legally sanctioned excavations or removals. This triggered calls for legislation to provide a mechanism for the return of remains and related funerary objects to tribal descendants.[4] The Senate Select Committee on Indian Affairs commiserated with tribal leaders who expressed concerns that museums and federal agencies had not historically conducted meaningful inquiry into the circumstances by which donors or sellers had acquired items. Concern over the continued growth of a black market trade in Native American funerary and ceremonial objects also played a part in Congress's decision to support the law.[5]

". . . Concerns about the 'slippery slope effect' [of NAGPRA] surfaced early on. Many in the scholarly community worried that their access to research materials would shrink, and many in the museum world and in the public worried that museum shelves would be emptied."

Many stakeholders in tribal, museum, and scientific communities worked diligently to tackle difficult issues underpinning the proposed repatriation legislation; however, concerns about the 'slippery slope effect' surfaced early on. Many in the scholarly community worried that their access to research materials would shrink, and many in the museum world and in the public worried that museum shelves would be emptied. As discussed below, the sands have certainly shifted as control over many human remains and objects has shifted to Native peoples **(FIGS. 1 & 2)**. Nonetheless, muse-

1 Margaret Dubin, *Native America Collected: The Culture of the Art World* (University of New Mexico Press, 2001), p. 17.

2 *Ibid*, pp. 30-31.

3 Jeannette Greenfield, *The Return of Cultural Treasures* (Cambridge University Press, 1995), p. xiii.

4 U.S. Senate Select Committee on Indian Affairs, Senate Report 101-473, 101st Congress, 2d Session, September 26, 1990, p. 3. The 1868 Surgeon General's order to Army field officers to collect and send Indian skeletons to Washington, D.C. for scientific study is a notorious example of the type of action that contributed to the growth of some institutional collections (See U.S. House of Representatives Committee on Interior and Insular Affairs, House Report 101-877, 101st Congress, 2d Session, October 15, 1990, p. 9.)

5 *Ibid.*, Senate Report, 1990, p. 5.

FIGURE 1. Canoe prow repatriated in 1999 by the American Museum of Natural History to the Raven Clan, Angoon, Alaska. Photo courtesy of Garfield George.

FIGURE 2. Angoon Ravens canoe prow repatriation ceremony. Left to right: Dan Johnson, Garfield George, Jimmy George (wearing clan hat). Photo courtesy of Garfield George.

ums retain many important Native American items, and museum professionals and archaeologists are developing important new ways of assessing value in these items and working with descendant communities to develop protocols for the acquisition, study, and curation of materials with important cultural connections to those groups.

It is a complicated matter to develop broadly acceptable protocols for accessing, controlling, and managing interests in important cultural objects such as those subject to NAGPRA. Earlier legislation did little to encourage substantive negotiation over their control and ownership. With the advent of NAGPRA, however, the negotiating table was set, and like it or not, the parties were required to sit together and work through the delineated process. Many found the process to be complicated, time-consuming, and conceptually challenging. Although NAGPRA's passage was applauded by many as a historic step forward in redressing wrongs inflicted on indigenous peoples of this country, the law has also been challenged as a mandated process rife with financial, administrative, and cultural difficulties.

NAGPRA IN PRACTICE

How are NAGPRA's goals implemented on a day-to-day basis? Administrative activities for NAGPRA are carried out by the U.S. Department of the Interior's National NAGPRA Program. The National NAGPRA Website — www.nps.gov/history/ NAGPRA — provides a wealth of information for those interested in the details of implementation. The law requires museums, universities, and federal agencies (institutions that receive federal funds) to file documents with the Department of the Interior's National NAGPRA Program that publicly identify Native American human remains and cultural items in their collections. The purpose is to inform Indian tribes and Native Hawaiian Organizations of the types of cultural items in collections and to enable potentially affiliated parties to participate in consultations about disposition options.

As of the 2009 Program Report issued by the National NAGPRA Office, 734 institutions had filed inventories identifying the remains of 38,671 culturally-affiliated individuals, for whom there are 998,731 associated funerary objects. An additional 124,377 individuals were still documented as "culturally unidentifiable"; those remains are associated with 916,432 curated funerary objects.

Also subject to NAGPRA are unassociated funerary objects (objects identified as funerary but not associated with any human remains known to be in collections), sacred objects, and objects of cultural patrimony. As of the 2009 report, institutions reported having possession or control of 144,163 unidentified funerary objects, 4,303 sacred objects, 948 objects of cultural patrimony, and 822 objects identified as meeting the definitions of both sacred and patrimonial.

NAGPRA's process for addressing the fate of the more than 120,000 human remains identified as "culturally unidentifiable" still held in institutions has been a crucial, high profile, and — until recently — unaddressed part of its overall goals. On March 15, 2010, The Department of the Interior issued a Final Rule establishing a process for resolving claims relating to Native American human remains listed as "culturally unidentifiable." The rule, the details of which were intensely debated and remain contentious in various ways, establishes a new direction for the implementation of NAGPRA.

A key concern expressed by many in the scientific and museum communities is the failure of the regulation to acknowledge ongoing curation as a viable option, due to the regulation's emphasis on prompt transfer of remains to groups who offer to take control even if those groups are not demonstrably related to the individuals being transferred. An additional concern expressed by some is that the rule encourages the transfer of funerary objects along with remains, even though the law does not include those items — numbering more than 900,000 — in its call for protocols related to the remains themselves. These changes to the law have been viewed by some as jeopardizing the delicate balance of interests established in the language of the law itself. Prior to its enactment, the rule was published and comments were solicited. The American Association of Museums and the Society for American Archaeology were among many who filed comments with the Department of the Interior expressing concerns about the new rule. Nonetheless, the rule went into effect as published.

Claims for the return of sacred objects and objects of cultural patrimony have also proven to be challenging. Determining sacredness for NAGPRA's purpose is fraught with concerns about proof. The law requires analysis of whether the objects were, and still are, necessary for use by traditional religious leaders. Debates continue over which parties should be recognized as proper authorities to speak to the question. Many Native Americans have expressed concerns about having to reveal confidential information to outsiders in order to "prove" the sacredness of objects.

Claims for objects on the basis of cultural patrimony involve questions of whether objects were owned individually or communally when first transferred from tribal hands and whether the transferor had tribal authority to act on behalf of the group. Culturally diverse concepts of property ownership and custodianship, and questions about rights and obligations associated with possession, have led to debates over whether, for example, a Navajo singer's widow had proper authority to sell ritual objects (*U.S. v. Corrow*), or whether the sale of masks by individual members of the White Mountain Apache tribe in the early 20th century should ever be considered voluntary in light of the pervasiveness of harsh conditions under which the Apache people were living at the time.[6]

"According to [a] 2009 Report, 248 alleged counts of failure [of museums] to comply with [NAGPRA] had been submitted, of which: 18 were found to be substantiated . . . ; 108 were found to be unsubstantiated . . . ; with 122 still remaining to be investigated . . ."

Debates continue over whether museums are complying with the law as they continue to carry out their documentation and consultation obligations. Many museums have dedicated curators and staff working closely with tribal representatives to identify potentially affiliated cultural items and develop appropriate repatriation or curation processes. Success stories abound, and many effective relationships have been developed between tribes and museums that are growing into working relationships extending beyond the mandates of NAGPRA. Nonetheless, there have been accusations of museums failing to fulfill their obligations under the law.

In 2003, the Department of Interior issued a final rule establishing a process for investigating museum compliance with the law and authorizing civil penalties for non-compliance. According to the 2009 Report, 248 alleged counts of failure to comply had been submitted, of which:

6 Minutes of Review Committee Meeting, November 3-4, 2006 available online at: http://www.nps.gov/history/nagpra/review/meetings/RMS033.pdf.

- 18 were found to be substantiated (alleged against 12 museums);
- 108 were found to be unsubstantiated (alleged against 7 museums); with
- 122 still remaining to be investigated (alleged against 26 museums).

The bases of substantiated counts include failure to submit the required inventory or summary, failure to properly consult with tribes, failure to repatriate when required, and transfer of custody to an unauthorized party. As of the 2009 Report, $38,490 in fines had been assessed against seven museums.

"Private collectors are not subject to NAGPRA, but questions about NAGPRA's applicability and about the provenance of objects . . . can impact on a collector's ability and inclination to buy, sell, or donate objects."

Although the length of time and amount of funding needed to complete NAGPRA work have turned out to be much greater than initially anticipated, many museums and tribes continue to work diligently to move the process forward. In 1994, The Interior Department launched its NAGPRA Grants Program. More than $31 million has been provided to Indian tribes, Native Hawaiian Organizations, and museums to support NAGPRA-related activities. The grants assist with funding to enable Native American and museum representatives to meet and participate in consultations about the identity and cultural affiliation of human remains and objects, and some grants assist with the actual repatriation process by funding activities related to the transfer of physical custody of cultural items from museums to claimants and the reburial of human remains.

STATUS OF OBJECTS IN COLLECTIONS

Many private and institutional collectors of Native American objects remain uncertain about the status of the objects in their collections. If an institution receives federal funding, it is subject to NAGPRA and must determine, in consultation with Native American groups, whether objects in its collections qualify under one or more of the definitions of "cultural item" in the law. If an object does not fall under any of the defined categories, it is not subject to claims under NAGPRA. Private collectors are not subject to NAGPRA, but questions about NAGPRA's applicability and about the provenance of objects — particularly, whether there is clear confirmation of legal ownership — can impact on a collector's ability and inclination to buy, sell, or donate objects.

If Native American human remains and cultural items are newly discovered on federal or tribal lands, the managing federal agency must report them and allow tribes or others authorized under the law to decide what should be done. New excavations on federal or tribal lands are allowed only under a permit and in consultation with potentially affiliated tribes. According to the 2009 Report, 90 notices have been filed, addressing the intended disposition for the human remains of 495 individuals, 4,148 associated funerary objects, 64 unassociated funerary objects, and 4 objects of cultural patrimony. Burials may be left in place and re-stabilized if they were inadvertently uncovered during unrelated activity, or they may be reburied in another location if the original burial location is no longer viable.

The shift in policy from removing objects for curation to allowing burials to remain intact on the landscape has been hailed as an important step toward more respectful treatment of Native peoples. Still problematic, however, is the ongoing looting that occurs and continues to feed the market. Those who buy or sell Native American objects should be aware of NAGPRA's anti-trafficking provisions, which make it a crime to trade in objects that are protected under the law. It is no easy task to determine whether and when objects on the market were removed from federal or tribal lands. As mentioned earlier, laws restricting the trade in certain Native American objects have been in place for more than a century.

THE NEXT TWENTY YEARS

What is in store for NAGPRA over the next twenty years? Disputes still rage and differing worldviews continue to clash as parties debate notions of rights, responsibilities, ownership, and stewardship.

NAGPRA addresses specific issues and processes, but it cannot resolve all the substantive and emotional tensions that stretch well beyond the four corners of the legislation, tensions involving larger issues of cultural autonomy, civil rights, human rights, and sovereignty. NAGPRA is not a panacea for the myriad concerns of tribal peoples, scholars, and the public relating to protection, study, access, and control over Native American cultural objects. What, then, might provide some measure of optimism and encouragement?

There are several examples of museums working with indigenous groups to build ongoing relationships stemming from their initial interactions under NAGPRA, and working together to rethink the role of the museum as a place where indigenous voices and perspectives can be experienced. Emily Moore, in her article "Propatriation: Possibilities for Art after NAGPRA," highlights Harvard's Peabody Museum, which, for close to a century, had displayed a Tlingit totem pole that had been taken from a village in 1899. After the museum returned the totem pole pursuant to a claim under NAGPRA, Tlingit peoples gave the museum a cedar log to enable the museum to commission a new pole to be carved by a Tlingit master carver, Nathan Jackson. Tlingit members dedicated the new pole at a commemorative event held at the museum in 2001.[7] The American Museum of Natural History has successfully collaborated with tribes to enable them to reconnect with objects and to include tribal perspectives in its development of related curation and exhibition policies.[8] Some institutions, including the Smithsonian, have adopted formal policies to involve culturally affiliated groups and individuals in developing protocols for care of culturally sensitive objects.[9]

Despite these promising examples of museum/tribe cooperation, disputes continue to erupt over the role of museums as repositories of Native American ritual objects. One such dispute involves Tlingit peoples and the Alaska State Museum, a relationship that once represented a strikingly positive example of cooperation. James Pepper Henry, a member of the Kaw Nation of Oklahoma and the Muscogee Creek Nation, who had served as associate director of the Smithsonian's National Museum of the American Indian, was interviewed for an article recently published in *Museum,* a publication of the American Association of Museums. Mr. Henry cites the Alaska State Museum as a "best-case" scenario of museum-tribal collaboration, where the museum "has an agreement with some of the Tlingit clans in the area to be a repository and effective safe-haven for their cultural materials, and the community has access to that material for ceremonial use." He described it as "a scenario where NAGPRA has really helped create a positive relationship."[10]

"Those who buy or sell Native American objects should be aware of NAGPRA's anti-trafficking provisions, which make it a crime to trade in objects that are protected under the law."

But that ideal scenario was recently shaken. At the November 2010 meeting of the NAGPRA Review Committee, Sealaska Corporation and the Wrangell Cooperative Association brought a dispute in front of the Review Committee, challenging the Alaska State Museum's authority to continue as the permanent repository for the Teeyhiittaaan Clan Crest Hat, known as *Yeil Aan Kaawu Naa s'aaxw,* or "Leader of All Ravens Hat." The museum has served as repository for the hat since the 1920s, when William Paul, the Clan's caretaker for the hat, placed it in the museum's custody for safekeeping. The parties dispute whether Paul had proper authority, under Tlingit law, to transfer custody of the hat when not in use by the Clan for ritual purposes. The dispute continues, with a possibility that it will go to federal court before resolution.[11]

7 Emily Moore, "Propriation: Possibilities for Art after NAGPRA," *Museum Anthropology,* v. 33, no. 2, Fall 2010, p. 1, published online by Wiley Online Library, available at: http://onlinelibrary.wiley.com/doi/10.1111/j.1548-1379.2010.01091.x/pdf.

8 See Martha Graham and Nell Murphy, "NAGPRA at 20: Museum Collections and Reconnections." In *Museum Anthropology,* v. 33, no. 2 (Fall 2010), pp.105-124.

9 Smithsonian Institution, Policies and Procedures for Management of Culturally Sensitive Collections. Approved December 4, 2000. Available online at: http://anthropology.si.edu/repatriation/pdf/tcpst.pdf.

10 James Pepper Henry, "20 Years and Counting: James Pepper Henry's View of NAGPRA." In *Museum,* v. 89, no. 6 (November–December 2010), p. 54.

11 *Sealaska Corporation v. Alaska State Museum,* Dispute brought before NAGPRA Review Committee, November 17 – 19, 2010. Documents available online at: http://www.nps.gov/nagpra/REVIEW/Dispute_Materials.htm.

If the fate of many objects in museum collections remains uncertain, the future of objects in private hands is even less clear. As stated above, NAGPRA does not directly impact private collections, but it does have downstream implications for collectors. Some collectors have asked museums to help facilitate the return of objects to tribes. They prefer to donate an object to a museum rather than directly to a tribe in order to receive a tax deduction, but this can be problematic on a number of fronts. Tax law, corporate law, and acquisition policies may limit a museum's ability to accept such a gift if the ultimate intention is to transfer ownership to a tribe. Moreover, accepting gifts of objects potentially subject to NAGPRA would require a museum to re-engage in the process of documentation, research, and consultation to determine whether the objects require repatriation.

"... the future of objects in private hands is even less clear. [Although] NAGPRA does not directly impact private collections, it does have downstream implications for collectors."

For fifteen years, the American Indian Ritual Object Repatriation Foundation served as a vehicle to facilitate the return of ritual objects from private collectors to Native American groups. Unfortunately, the foundation no longer actively serves that role, although its Website continues to provide information to educate the public about the difference between art objects suitable for trade in the marketplace and ritual objects that should not be bought or sold due to their ongoing importance to Native American peoples.[12] At present, the private marketplace does not have adequate access to services focused on determining whether objects are of ritual or cultural importance to indigenous groups and facilitating their return if a collector wishes to take such action.

Despite a sea change in attitudes and activities over the course of the last two decades, the art market continues to trade actively in Native American cultural objects. A recent search on eBay revealed 4,680 "Indian Antiques," of which 387 were labeled "Native American" (eBay, November 29, 2010). The following objects were among the offerings:

- *Old Alaska Tlingit Haida Indian Hand-Carved Totem...*
- *Old Child/Women's Sioux Plains Indian Hide Wrapped Club...*
- *Southwest Indian Painted Ceremonial Stick – Navajo or Apache...*
- *Antique Native American Indian Beaded Ceremonial Basket...*
- *Sioux Indian Child's Moccasins, Beaded and Quilled...*

In some ways, the era of collecting Native American cultural objects has been strikingly and permanently transformed to reflect modern understandings of Native peoples' interests, historical mistreatment, and right to have their ancestors and heritage treated with respect. In other ways, George Gustave Heye might find that the 21st century marketplace could just as well feed his 20th century collecting appetite.

On this 20th anniversary of NAGPRA, debates, compromises, disputes, and predictions about the future of the trade in Native American arts and artifacts continue apace. NAGPRA's influence extends beyond the nation's borders, as cultural institutions and private collectors outside the U.S. draw on American experiences to shape their perspectives on acquiring, displaying, interpreting, and trading in the ritual objects of indigenous peoples. NAGPRA's impact has been enormous, yet in many ways its influence has just begun. The next era of NAGPRA, in its direct application and in its larger influence on the market's perception of an appropriate trade in objects of indigenous cultures, promises to be intriguing and challenging.

• • •

12 American Indian Ritual Object Repatriation Foundation, New York, NY. Website: http://www.repatriationfoundation.org.

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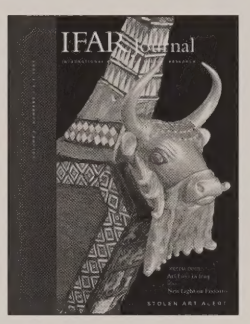

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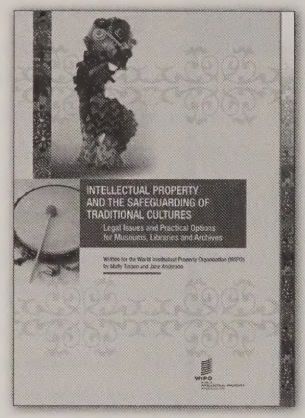

New Publication

The World Intellectual Property Organization is pleased to announce the release of its new publication entitled *Intellectual Property and the Safeguarding of Traditional Cultures: Legal Issues and Practical Options for Museums, Libraries and Archives.*

This publication, prepared under the aegis of the WIPO Creative Heritage Project by two external consultants, Ms. Molly Torsen and Dr. Jane Anderson, offers legal information and compiles practical experiences on the **management of intellectual property for cultural institutions** whose collections comprise traditional cultural expressions. It seeks to respond directly to the needs of cultural institutions and indigenous and traditional communities dealing with the preservation, safeguarding and protection of cultural heritage.

It is available from the WIPO website, *www.wipo.int/ebookshop/*. For more information on WIPO's work in the area of cultural heritage, and for a free PDF version of the publication, visit *www.wipo.int/tk*. For any enquires, please contact *grtkf@wipo.int*.

"Museums ready to hand back Nazi looted Picasso paintings"

"Restitution of 101 art objects to Russia missing since WWII"
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The Geneva Art-Law Centre is presently conducting a **research on "Alternative Dispute Resolution Mechanisms in Art-Law"**. Funded by the Swiss National Science Foundation (SNSF), the team of Prof. Marc-André Renold is engaged in the collection and analysis of alternatively resolved art disputes. The research endeavors to highlight the benefits of ADR methods in the art-law sector and the practical, legal and ethical consequences they may have compared to court litigation.

For more information, please visit the Art-Law Centre's website at http://www.art-law.org/ or contact the research team: art-adr@unige.ch.

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Most items in this publication are registered in the database of the Art Loss Register, which has an office in London, England at First Floor, 63-66 Hatton Garden, London EC1N 8LE.

The photo of each item is accompanied by a brief description of the work, the ALR catalogue number, if registered, and the date and place of theft. An asterisk before the catalogue number means that a photograph of the stolen work is available, although not necessarily included in this issue.

Anyone wishing additional information should contact the ALR at 44.207.841.5780. From the U.S., add the prefix 011.

STOLEN ART ALERT

STOLEN ART*

PAINTINGS

The following paintings by **HAIDEE BECKER** *(American/English, born 1950) were stolen from the artist's studio in London, England on April 5, 2010. *L10.108766:*

58 ***The Red Slippers,*** 2007. Oil on canvas. 62" x 67" (157.48 x 170.18 cm).

59 ***Blue Delphinium – Indian Yellow,*** 2008. Oil on canvas. 56" x 36" (142.24 x 91.44 cm).

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*The following 15 paintings were stolen from a private residence in Sydney, Australia between August 7 and August 10, 2010. *L10.108936. See also item nos. 107–109 below:*

60 **CHARLES BLACKMAN** (Australian, born 1928). ***Victoria and Moonlight.***

61 **DAVID BOYD** (Australian, born 1924). ***Dreamer in the Glen.***

62 **CRISS CANNING** (Australian, born 1947). ***Nasturtiums, Iris and Blue Vase.***

63 **JOHN COBURN** (Australian, 1925-2006). ***Tree of Life.***

64 **JANET CUMBRAE STEWART** (Australian, 1883-1960). ***The Crimson Scarf.***

65 **ROBERT DICKERSON** (Australian, born 1924). ***The Girl in White.***

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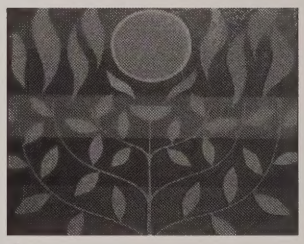

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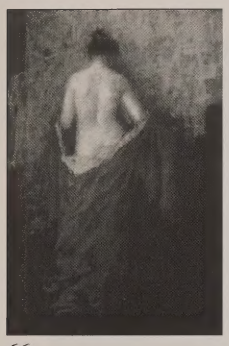
* *Numbering for the year 2010/2011 Cumulative Index of Stolen Art began with Vol. 12, no 1.*



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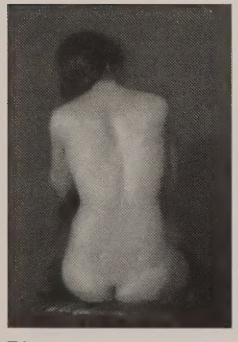

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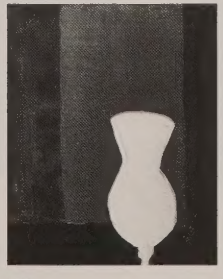

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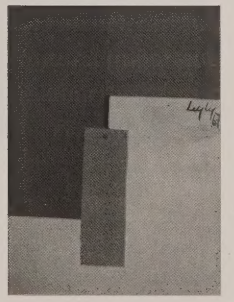

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66 **JUDY DREW** (Australian, born 1951). *The Red Gown.*

67 **JUDY DREW.** *The Red Silk Robe.*

68 **MARTINE EMDOR** (Australian, contemporary). *Voyeur.*

69 **PRO HART** (Australian, 1928-2006). *Wild Orchids.*

70 **JOHN PERCEVAL** (Australian, 1923-2000). *Tugboat, Williamstown Port.*

71 **GARRY SHEAD** (Australian, born 1942). *Adieu Australia.*

72 **TIM STORRIER** (Australian, born 1949). *Capricorn Haze.*

73 **ARTHUR STREETON** (Australian, 1867-1943). *Little Blue Bay, Sirius Cove, Sydney.*

74 **DORA LYNELL WILSON** (Australian, 1883-1946). *Nude with Blue Drape.*

The following paintings by **LEYLY MATINE-DAFTARY** *(Iranian, 1937-2007) were stolen from a private residence in Tehran, Iran on January 1, 1980. *L09.675:*

75 *The Goblet,* 1967. Oil on canvas. 70 x 50 cm (approx. 27 ½" x 19 ¾").

76 *Untitled,* 1967. Oil on canvas. 70 x 50 cm (27 ½" x 19 ¾").

STOLEN ART ALERT

*The following paintings were stolen from a private residence in The Hague, The Netherlands on October 13, 2009. *L09.778:*

77 **CORNELIS SPRINGER** (Dutch, 1817-1891). ***Winter Cityscape of Medemblik.*** Oil on panel. 20 x 25 cm (approx. 7 ¾" x 9 ¾").

78 **HERMANUS KOEKKOEK** (Dutch, 1815-1882). ***Untitled Seascape.*** Oil on canvas. 35 x 55 cm (approx. 13 ¾" x 21 ½").

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*The following paintings were stolen from a warehouse in N. Seattle, WA on January 18, 2010. *N10.049. See also item nos. 119–125 below:*

79 **EUGENE GARIN** (Russian, 1922-1994). ***Double-Masted Sailboat.*** 60 x 121.92 cm (approx. 23 ½" x 48").

80 **EUGENE GARIN.** ***Rusty Freighter.*** Oil. 60 x 121.92 cm (approx. 23 ½" x 48").

81 **LOUISE TENNYSON** (American, 1932-2010). One of two stolen paintings by the artist, each entitled ***Southwest Desert.*** Pastel. Oil. 60 x 121.92 cm (approx. 22 ½" x 48").

82 **UNKNOWN.** ***Hat Scarf Pitcher.*** Oil. 121.91 x 60 cm (approx. 48" x 23 ½").

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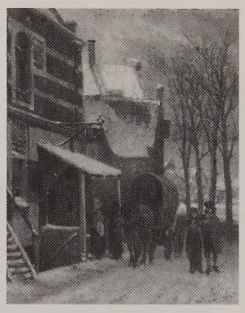
*The following two paintings were stolen from a business office in Hoorn, The Netherlands on August 24, 1987. *L10.108902:*

83 **JEANNE BIERUMA-OOSTING** (Dutch, 1898-1995). ***Still Life with Fruits and Bottles,*** 1984. Oil on canvas. 60 x 70 cm (approx. 23 ½" x 27 ½").



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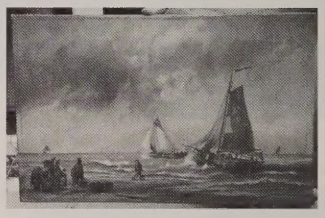

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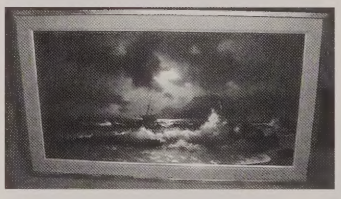

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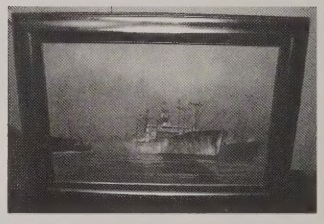

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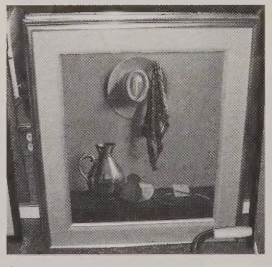

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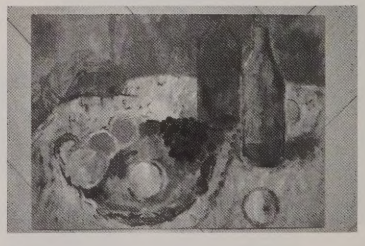

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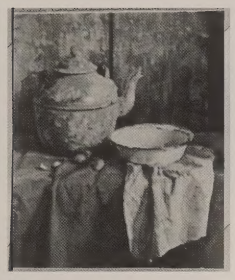

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84 **LEENDERT VAN DIJK** (Dutch, 1915-1990). ***Still Life with Blue Jug,*** 1980. Oil on canvas. 40 x 30 cm (approx. 15 ¾" x 11 ¾"). Signed l/l.

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*The following paintings were stolen from a private residence in Wymondham, England on August 5, 2010. *L10.108926:*

85 **WILLIAM NEDHAM** (English, op. 1823-1849). ***Portrait of Horse in Landscape.*** Oil on canvas. 21" x 32" (53.34 x 81.28 cm).

86 **ADRIAN STOKES** (English, 1854-1935). ***Mooreland Landscape,*** 1850. Oil on canvas. 40" x 60" (101.60 x 152.40 cm).

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*The following paintings were stolen from a private residence in London, England on July 31, 2009. *L10.109013:*

87 **ADOLPH STEFAN JENTSCH** (German/South African, 1888-1977). ***Mountainous Landscape with Shave Grass,*** c. 1938. Oil on canvas. 58 x 78 cm (approx. 22 ¾" x 30 ¾").

88 **FRANCOIS KOCH** (South African, born 1944). ***Sunday Morning Silence.*** Oil on canvas. 57 x 82 cm (approx. 22 ½" x 32 ¼").

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*The following two paintings were stolen from the public library in Dunshaughlin, Ireland on July 9, 2009. *L10.108746:*

89 **CHARLES VINCENT LAMB** (Irish, 1893-1964). ***Houses in Connemara,*** 1950. Oil on board. 26.7 x 35.7 cm (approx. 10 ½" x 14"). Signed in red l/l.

STOLEN ART ALERT

90 **MAURICE JOSEPH MACGONIGAL** (Irish, 1900-1979). ***Tir Dreach, Connemara.*** Oil on board. 30.4 x 40.6 cm. (approx. 12" x 16").

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91 **CARL FUDGE** (English, born 1962). ***Live Cat Painting.*** Oil on canvas. 48 x 60 cm (approx. 19" x 23 ½").

92 **A. MOULTON FOWERAKER** (British, 1873-1942). ***Lion Courtyard Grenada.*** *L10.109071. Stolen from a private residence in Singlewell, England on October 30, 2010.

93 **MICHAEL GOLDBERG** (American, 1924-2007). ***Untitled,*** 1951-52. Oil on canvas. 80 ¾" x 45 ½" (205.11 x 115.57 cm). *L10.109087. Lost in transit in New York City on February 14, 2010.

94 **FRITZ HEINSHEIMER** (German, 1897-1958). ***The Old Harbor of Batavia,*** 1923. Oil on canvas. 60 x 40 cm (approx. 23 ½" x 15 ¾ "). *L10.109065. Stolen from a private residence in Bleckede/Brackede, Germany on September 15, 2009.

95 **MELISSA KOCH** (American, contemporary). ***Maria Callas,*** 2010. Acrylic on canvas. 60" x 120" (152.4 x 304.8 cm). *N10.067. Stolen from the artist's studio in Seattle, WA on January 17, 2010.

96 **ROBERT KOHL** (Austrian, 1891-1941). ***Portrait of Peter Schartelmuller,*** 1932. Oil on canvas. 73.2 x 60.2 cm (approx. 28 ¾" x 23 ¾"). Signed u/r. *L10.108789. Stolen in Vienna, Austria on December 4, 2001.

97 **MAX LIEBERMANN** (German, 1847-1935). ***Self-portrait.*** Oil on panel. 44.12 x 37.13 cm (approx. 17 ¼" x 14 ½"). Signed l/l. *N10.147. Stolen from a private residence in Durham, NC in 2004.

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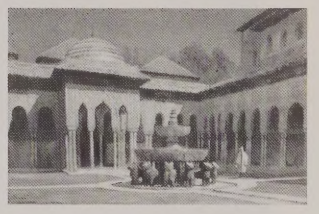

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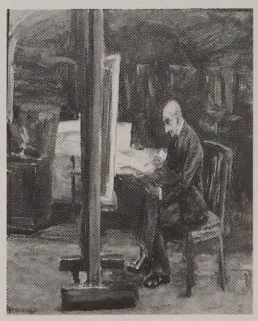

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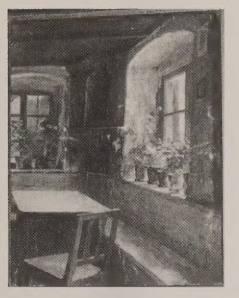

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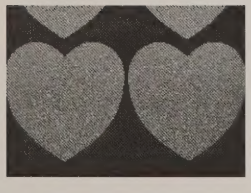

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98 **KARL AUGUST LINER** (Swiss, 1871-1946). ***Hergottswinkel Bauernstuebe.*** Oil on canvas. 50 x 40 cm (approx. 19 ¾" x 15 ¾"). *L10.097. Stolen from a private residence in Zurich, Switzerland on October 19, 2005.

99 **MATIKO MAMALADZE** (Georgian, born 1964). ***Baptism,*** 1989. Oil on canvas. 170 x 120 cm. (approx. 67" x 47 ¼"). *N10.068. Stolen from an exhibition in Belgium or Germany on August 15, 1989.

100 **KINDRED MCLEARY** (American, 1901-1949). ***Cotton,*** 1928. See color photo on inside back cover.

101 **LEROY NEIMAN** (American, born 1921). ***Oscar de la Hoya – Shane Mosley,*** 2000. See color photo on inside back cover.

102 **SEBASTIANO DEL PIOMBO, Circle of** (Italian, 1485-1547). ***Portrait of Giulia Gonzaga.*** See color photo on inside back cover.

103 **JOHN HENRY TWACHTMAN** (American, 1853-1902). ***Impressionistic Landscape.*** Oil on canvas. 20 ¾" x 20" (52.71 x 50.8 cm). Signed in green paint l/r. *N10.111. Stolen from a private residence in Williamstown, NJ on October 6, 1997.

104 **VINCENT VAN GOGH** (Dutch, 1853-1890). ***Poppy Flowers (Vase with Flowers),*** 1887. See color photo on inside back cover.

105 **ANDY WARHOL** (American, 1928-1987). ***Heart 4,*** 1981. Acrylic on canvas. 10" x 14" (approx. 25 ½" x 35 ½"). Signed verso. With a Warhol Foundation stamp and serial no. A127.076. *N10.146. Stolen from a gallery in New York on June 24, 2010.

106 **GAO XINGJIAN** (Chinese, born 1940). ***The Dreamer,*** 2008. Ink on canvas. 130 x 194 cm (approx. 51" x 76 14"). ID no: 09.1354. Signed l/l. *N10. 090. Stolen in transit in New York City on March 18, 2010.

STOLEN ART ALERT

WORKS ON PAPER

The following three works on paper by **NORMAN LINDSAY** *(Australian, 1879-1969) were stolen from a private residence in Sydney, Australia between August 7 and August 10, 2010. *L10.108936. See also item nos. 60-74 above:*

107 *Rita of the Seventies.*

108 *Seated Nude.*

109 *Gloria.*

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*The following six works on paper were stolen in Tel Aviv, Israel on February 4, 2010. *L10.108762:*

110 **MARC CHAGALL** (Russian/French, 1887-1985). ***The Man Praying,*** 1970. Gouache on paper. 65 x 50 cm (approx. 25 ½" x 19 ¾").

111 **PABLO PICASSO** (Spanish, 1881-1973). ***Head,*** 1971. Gouache and pencil on board. 28 x 21.5 cm (11" x 8 ½"). Dated bottom center: 4.10.71.

112 **WILLIAM KENTRIDGE** (South African, born 1955). Drawing from ***Preparing the Flute (Queen of the Night III with collage),*** 2005. Collage and charcoal. 114 x 160 cm (approx. 44 ¾" x 63"). *N10.124. Stolen in transit in New York City on February 15, 2010.

113 **KATHE KOLLWITZ** (German, 1867-1945). ***Visit in a Children's Hospital,*** 1926. Chalk on paper. 35.2 x 45 cm (approx. 13 ¾" x 17 ¾"). Signed in pencil l/r. *N10.029. Stolen at Los Angeles International Airport, Los Angeles, CA on December 12, 2009. See also item nos. 116-118 below.

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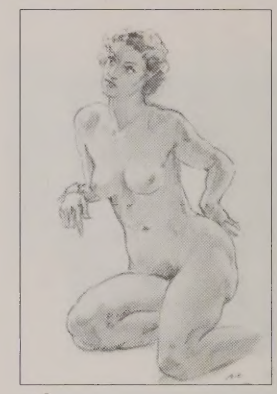

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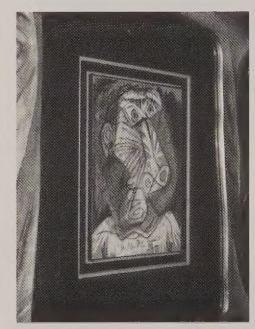

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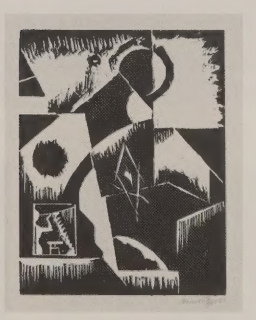

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114 **ALFRED KUBIN** (Austrian, 1877-1959). ***Stallion in Landscape with Reeds,*** 1925. Pen and ink drawing with watercolor. 32 x 29 cm (approx. 12 ½" x 11 ½"). Signed and dated. *N10.183. Stolen from a private residence in Munich, Germany in 2008.

115 **ERICH MENDELSOHN** (German, 1887-1953). ***Einstein Tower,*** 1919. Ink on paper. 21 x 29 cm (approx. 8 ¼" x 11 ½"). *L10.108899. Stolen from a private residence in Herts, England on June 1, 2010.

PRINTS, LITHOS

*The following prints were stolen at Los Angeles International Airport, Los Angeles, CA on December 12, 2009. *N10.029. See also item no. 113 above.*

116 **FRIEDENSREICH HUNDERTWASSER** (Austrian, 1928-2000). ***Spectacles on a Small Face,*** 1968. See color photo on inside back cover.

117 **EDMUND KESTING** (German, 1892-1970). ***Despair,*** 1915. Woodcut print. 23.3. x 19.2 cm (approx. 9 ¼" x 7 ½"). Signed and dated l/r.

118 **ARNOLD TOPP** (German, 1887-1960). ***Abstract Composition,*** 1921. Woodcut print on paper. 38 x 31.6 cm (approx. 15" x 12 ½"). Signed and dated l/r. Edition of 110, but not numbered.

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*The following prints were stolen from a warehouse in North Seattle, WA on January 18, 2010. *N10.049. See also item nos. 79-82 above.*

119 **STEVEN LEE ADAMS** (American, born 1962). ***Desert House.*** 60 x 121.92 cm (approx. 23 ½" x 48").

STOLEN ART ALERT

120 **STAN BECKMAN** (American, contemporary). ***La Quinta Center Court.*** Lithograph. 60 x 121.92 cm (approx. 23 ½" x 48").

121 **EUGENE GARIN** (Russian, 1922-1994). ***Abstract.*** 60 x 121.92 cm. (approx. 23 ½" x 48").

122 **EUGENE GARIN.** ***Asian Musicians.*** 60 x 121.92 cm

123 **CAROL GRIGG** (Native American, born 1943). ***Horseback.*** 60 x 121.92 cm.

124 **KYOSHI SAITO** (Japanese, 1907-1992). ***Gion in Kyoto,*** 1959. Wood block print. 60 x 121.92 cm (approx. 23 ½" x 48"). Signed at left in red with a square symbol.

125 **KYOSHI SAITO.** ***Winter in Aizu,*** 1958. Woodblock print. 60 x 121.92 cm (approx. 23 ½" x 48").

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*The following 10 prints were stolen from a private residence in New York, NY between November 24 and November 28, 2010. See also item no. 91 above. *L10.0109140:*

ROY LICHTENSTEIN (American, 1923-1997).

126 ***Thinking Nude.*** 42 x 61 cm (approx. 10 ½" x 24"). Ed no. 10/PP1.

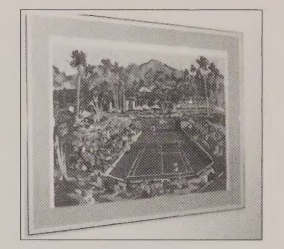
127 ***Moonscape.*** 19 x 23 cm (approx. 7 ½" x 9"). Edition of 200.

ANDY WARHOL (American, 1928-1987).

128 ***Camouflage,*** 1986. 38 x 38 cm (approx. 15" x 15"). Ed. no. 63/80.

129 ***Camouflage,*** 1986. 38 x 38 cm (approx. 15" x 15"). Ed. no. 63/80.

130 ***Camouflage,*** 1986. 38 x 38 cm (approx. 15" x 15"). Ed. no. 63/80.



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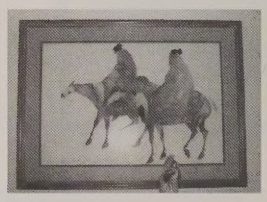

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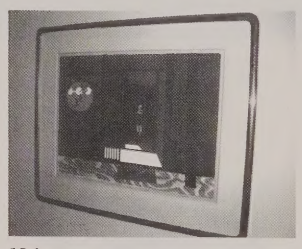

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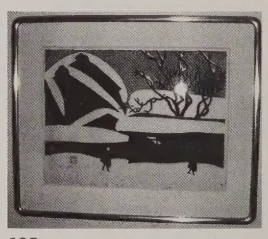

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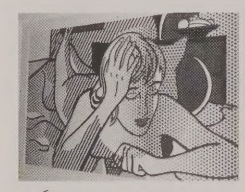

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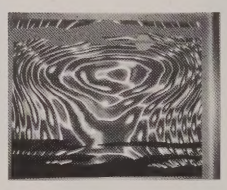

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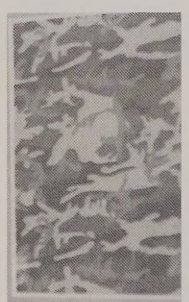

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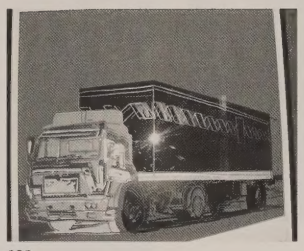

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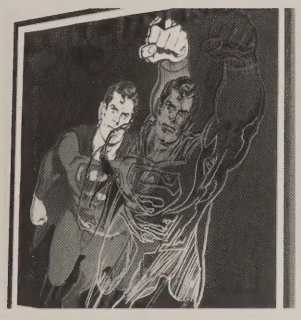

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131 *Truck.* 39 x 39 cm (approx. 15 ½" x 15 ½"). Ed. no. 28/60.

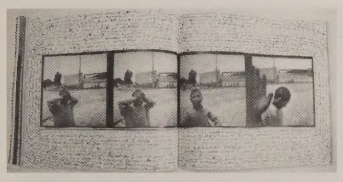
132 *Superman.* 38 x 38 cm (approx. 15" x 15"). Ed. no. 138/200.

PHOTOGRAPHS

The following photographs by **STEVE LEHMAN** *(American, contemporary) that were printed in the book The Tibetans: A Struggle to Survive were stolen from an undisclosed location on October 29, 2010. *L10.109069:*

133 ***Homeless Boy /Tibet/Photograph with Writing,*** 1998. Silver gelatin print with handwriting in India ink. 11 x 14 cm (approx. 4 ¼" x 5 ½").

134 ***Ngawang Choejom / Tibet /Photograph with Writing,*** 1998. Silver gelatin print with handwriting in India ink. 11 x 14 cm (approx. 4 ¼" x 5 ½").



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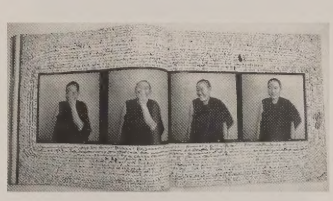

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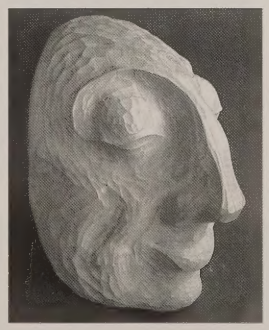
135 **CHRISTER FREDRIKSSON** (Swedish, contemporary). ***Koh Phi Phi Island,*** 2008. Photo. 28" x 84" (71.12 x 213.36 cm). *N10.013. Stolen from the University of Texas Anderson Cancer Center, Houston, TX on November 9, 2009.

135

SCULPTURE

The following works by **PAUL DEANS** *(New Zealander, contemporary) were among five stolen from the artist's studio in Christchurch, New Zealand on April 6, 2010. *L10.108767:*



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136 ***Inscrutably Happy,*** 2001. Ginko. 30 x 25 x 30 cm (approx. 11 ¾" x 9 ¾" x 11 ¾").

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137 *New Face,* 1998. Walnut. 25 x 15 x 12 cm (approx. 9 ¾" x 6" x 4 ¾").

138 *Undressing,* 2006. Carved wood. 120 x 40 x 40 cm (approx. 47 ¼" x 15 ¾" x 15 ¾"). Garment is stained red.

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139 *The pair of bronzes at far right (French School, 19th century), after the marble sculpture "The Horses of Marly," by* **GUILLAUME COUSTOU** *(French, 1677-1746), were stolen from a château in Puy-de-Dôme, France on August 21, 2010. *L10.108983. The first horse measures 80 cm (31 ½") high and the second, 58 cm (approx. 22 ¾").*

140 **ALFRED BARYE** (French, 1839-1882). ***Elephant of Senegal.*** Bronze. 10 x 17 cm (4" x 6 ¾"). *L10.108798. Stolen from a private residence in London, England on March 27, 2010.

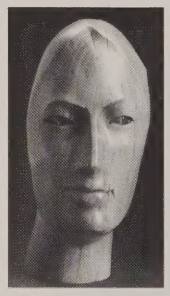
141 **BOB CLYATT** (American, contemporary). ***Alex #3.*** Ceramic. H: 36" (91.44 cm). *L10.109049. Stolen from Ryetown Park, Rye, New York, on October 4, 2010.

142 **DAUM** (French, contemporary). ***Untitled (Fish with a Human Face).*** Stone and glass. H: 56.5 cm (approx. 22 ¼"). *N10.099. Stolen from a department store in Palm Beach, FL on March 11, 2009.

143 **PIERS MASON** (English, contemporary). ***Leopard Messenger,*** 2010. Metal. 60 x 45 x 150 cm (23 ½" x 17 ¾" x 59"). *L10.109051. Stolen from the artist in Brighton, England on June 13, 2010.

144 **HENRY MOORE** (English, 1898-1986). ***Two-Piece Reclining Figure,*** c. 1976. Bronze. 8.5 x 23.7 x 10.6 cm (approx. 3 ¼ x 9 ¼" x 4 ¼"). *L10.109056. Stolen from an art fair in Paris on October 24, 2010.

145 **JOAN MOORE** (English, died 1996). ***Saint George and the Dragon,*** c.1937. Stone. *L10.108949. Stolen from a private garden in Surrey, England on July 24, 2010.



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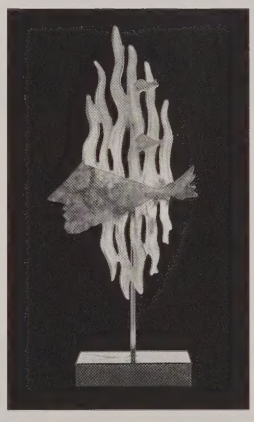

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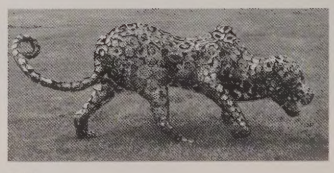

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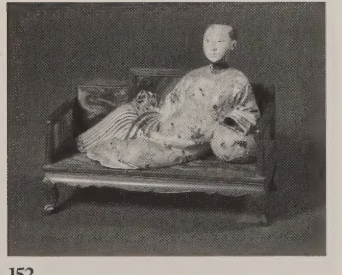

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155

146 MARY UCHYTILOVA (Czech, contemporary). *Child from Lidice,* c. 1995-2000. Bronze. H: 3' (1 m). Weight: 80 kg. Stolen from the Lidice Monument, Lidice, Czech Republic, on November 22, 2010.

147 UNKNOWN. *Greek Goddess,* 1960. Marble. *L10.112. Stolen from the garden of a private residence on Hayling Island, England on February 18, 2010.

148 UNKNOWN. *Narcissus.* Bronze. H: 18" (45.72 cm). Stolen from Falkland Palace, Falkland, Scotland on September 16, 2010.

DECORATIVE ARTS

*The following items were stolen from the Chinese Pavilion in Drottningholm, Sweden on August 6, 2010. *L10.108943:*

149 *Altar Cup* (Chinese, 18th century). Red lacquer. 15 x 12 cm (approx. 6" x 4 ¾").

150 *Box* (Japanese). Black lacquer with gold decoration. H: 9.5 cm; W: 16.3 cm; D: 12.8 cm (approx. 3 ¾" x 6 ½" x 5"). Inv. no. HGK 853.

151 *Carving Showing Lao-tse Riding* (Chinese, ca. 1680-1710). Soapstone. Greenish color.37.5 x 20 cm (approx. 14 ¾" x 7 ¾"). Inv. no. HGK 178.

153 *Miniature Sofa* (Chinese, 18th century). Rosewood and marble. 17.6 x 27.5 x 13.5 cm (approx. 7" x 10 ¾" x 5 ¼"). Inv. no. HGK 755.

153 *Plate,* (ca. 1750-1775). Carved musk wood. 3 x 18 cm (approx. 1 ¼" x 7"). Inv. no. HGK 880.

154 *Teapot* (Chinese, late 18th century). Tutanego (bronze alloy). Black with gold. 8.5 x 15 cm (approx. 3 ¼" x 6").

155 *Wine Cup,* ca. 1750-1775 A.D. Rhinocerous horn. 14.5 x 12.8 cm (approx. 5 ¾" x 5"). Inv. no. HGK 863.

STOLEN ART ALERT

MISSING ART*

PAINTINGS

*The following two paintings were missing from a gallery in Worcestershire, England on August 6, 2010. See also item no. 23 below. *L10.108927:*

2 **EDWARD SEAGO** (English, 1910-1974). ***Thames Barge at Low Water, Pin Mill.*** Oil on board. 16" x 24" (40.64 x 60.96 cm).

3 **DOROTHEA SHARP** (English, 1874-1955). ***In the Lily Garden / On the Sand Dunes*** (verso), 1901. Oil on canvas. 33" x 32" (83.82 x 81.28 cm). Signed l/l.

2

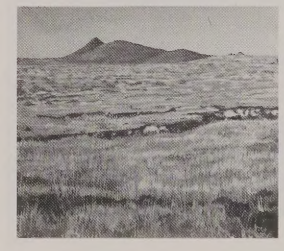
3

The following paintings by **TONY PRIDDLE** *(Australian, contemporary) were missing in Sydney, Australia on July 26, 2008. *L10.108955:*

4 ***Redscape No. 6,*** 2005. Oil on canvas. 40 x 46 cm (approx. 15 ¼" x 18 ¼"). Signed l/r.

5 ***Redscape No. 11,*** 2005. Oil on canvas. 110 x 115 cm (approx. 43 ¼" x 45 ¼"). Signed l/r.

6 ***Redscape No. 14,*** 2005. Oil on canvas. 102 x 94 cm (approx. 40 ¼" x 37"). Signed l/r.



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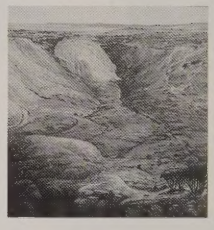

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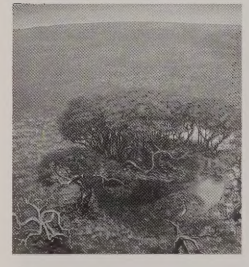

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7 **MICHAEL BEDARD** (Canadian, contemporary). ***Migration of the Snowbirds,*** 2009. Acrylic on canvas. 18" x 36" (approx. 45 ¾" x 91 ½"). *N10.189. Missing in Toronto, Canada on January 31, 2010.

7

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* *Numbering for the year 2010/2011 Cumulative Index of Missing Art began with Vol. 12, no 1.*

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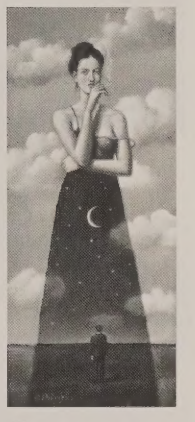

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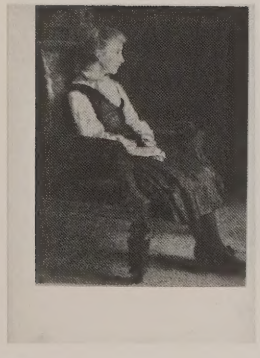

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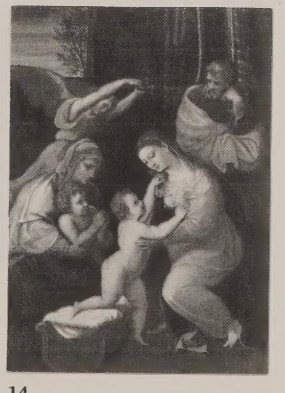


14

8 **JOHN CONSTABLE** (English, 1776-1837). ***Flatford Bridge and Cottage.*** Watercolor on canvas. 35 x 29.5 cm (13 ¾" x 11 ½"). *L10.115. Missing in transit between England and Victoria, Australia on July 29, 2009.

9 **M. F. HUSAIN** (Indian, born 1915). ***Mother Teresa,*** 1990. Oil on canvas. 58" x 89" (147.32 x 226.06 cm). Signed l/l. *N10.096. Missing from a warehouse in Long Island City on December 7, 2009.

10 **ANSEL NUNN** (American, 20th century). ***Voices in the Wind,*** 1970. Acrylic on canvas. 24" x 38" (60.96 x 96.52 cm). *N10.015. Missing from a private residence in San Antonio, TX on June 1, 1990.

11 **RAFAL OLBINSKI** (Polish, born 1943). ***Girl in Blue with Cigarette,*** 2009. Oil and acrylic. 15" x 10" (38.1 x 25.4 cm). *N10.036. Missing in Stamford, CT on January 12, 2009.

12 **SUSANNE PILLMAN** (German,). ***The Woman,*** 2010. Oil on linen. 80 x 60 cm (approx. 31 ½" x 23 ½"). *L10.109017. Missing from an exhibition in Cologne, Germany on September 5, 1987.

13 **THEODORE CLEMENT STEELE** (American, 1847-1926). ***Slip of a Girl,*** 1890. Oil on canvas. 50" x 36" (127 x 91.44 cm). *N10.118. Missing from the Phoenix Art Museum on January 1, 1955.

14 **UNKNOWN.** ***Holy Family,*** probably after Raphael (Italian, 1483-1520). Oil on wood. 116 x 92 cm (approx. 45 ¾" x 36 ¼"). *L10.108811. Missing from the Neues Stadtmuseum, Landsberg am Lech, Germany in late 2002.

STOLEN ART ALERT

MISSING ART

15 ADOLPH ULRICH WERTMULLER (Swedish, 18th century). ***Young Boy.*** Oil on canvas. 60 x 50 cm (approx. 23 ½" x 19 ¾"). *L10.037. One of two paintings by the artist missing from a private residence in Geneva, Switzerland on December 24, 1974.

15

ICONS

16 UNKNOWN. ***St. Cyril and St. Mary.*** *L10.108974. Missing along with icons of ***Elijah the Prophet*** and ***St. Sergiy of Radonezh*** from St. Trinity Church, Troitse-Seltso (Moscow), Russia on September 4, 2010.

16

WORKS ON PAPER

*The following works on paper were missing from a private residence in Athens, Greece on February 21, 2009. *L10.109024:*

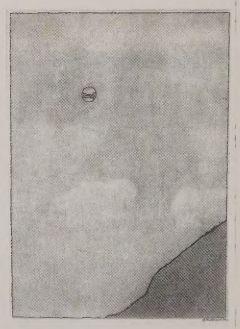
ILYA KABAKOV (Russian, born 1933):

17 ***Untitled,*** ca. 1970-72. Pencil on paper. 30 x 21 cm (approx. 11 ¾" x 8 ¼").

18 ***Untitled,*** ca. 1970-72. Pencil on paper. 30 x 21 cm (approx. 11 ¾" x 8 ¼").

19 ***Untitled,*** ca. 1970-72. Pencil on paper. 30 x 21 cm (approx. 11 ¾" x 8 ¼").

17



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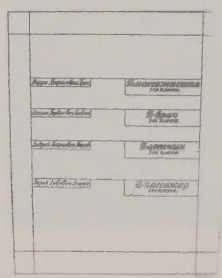

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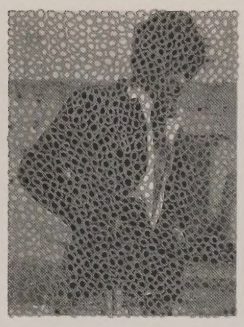

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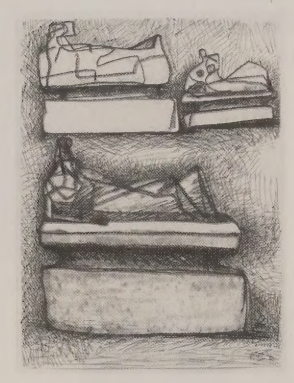

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24

20 **JOSEPH BEUYS** (German, 1921-1986). ***Jurte,*** 1962. Oil and pencil. 15.75 x 24.75 cm (approx. 6 ¼" x 9 ¾"). Verso: date and signature. *L10.109066. Missing from a private residence in Brookline, MA on October 20, 2010.

21 **JEAN FOOS** (American, 1901-1971). ***H&M Series "E",*** 2003. Oil on paper. 10" x 7" (25.4 x 17.78 cm). *L10.109086. One of two works by the artist missing from an art fair in Miami, FL on December 8, 2008.

22 **KATE LYDDON** (English, born 1979). ***Mind's a Void,*** 2009. Pencil on paper. 37.8 x 26.5 cm (approx. 14 ¾" x 10 ½"). Title and signature in pencil on verso. *L10.108919. One of three works by the artist missing from a gallery in Milan, Italy on March 1, 2010.

23 **HENRY MOORE** (English, 1898-1986). ***Three Reclining Figures on Pedestals,*** 1966. Crayon, felt tip pen, pen and ink, brush and ink. 11 ½" x 9 ¼" (23.5 x 29.21 cm). *L10.108927. Missing from a gallery in Worcestershire, England on August 6, 2010. See also item nos. 2 and 3.

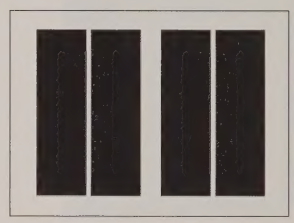
24 **LI JIN** (Chinese, born 1958). Watercolor. Approx. 15" x 24" (38.1 x 60.96 cm) Missing on December 26, 2010 from a location on Madison Avenue in New York City.

STOLEN ART ALERT

MISSING ART

PRINTS

25 **JOHN D. MCLAUGHLIN** (American, 1898-1976). ***Untitled (Geometric Abstraction)***, 1963. Lithograph on paper. 22" x 30" (55.88 x 76.2 cm). *N10.070. Missing from Marina del Rey, CA on December 21, 2009.



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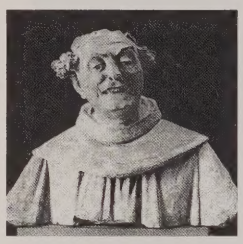
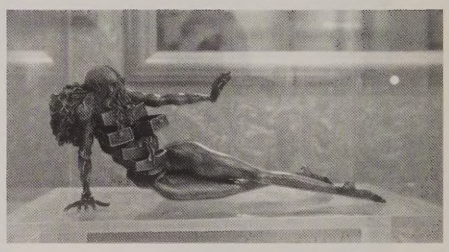
SCULPTURE



26

26 **GIOVANNI BASTIANINI** (Italian, 1830-1868). ***Bust of a Monk.*** *N09.457. Missing from a private residence in Florence, Italy on January 1, 1980.

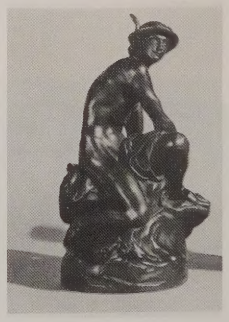


27

27 **SALVADOR DALI** (Spanish, 1904-1989). ***Lady with Drawers,*** 1964. Bronze. H: 30 cm (approx. 12"). Ed. no. 1/8. *L10.108950. Missing from the Belfortmuseum, Brugge, Belgium on August 18, 2010.

28

28 **PAUL PHILIPPE** (French, 1870-1930). ***Art Deco Pierrot Lady,*** c. 1920. Bronze and ivory. 20.5 x 6.0 cm (approx. 8" x 2 ½"). *L10.116. Missing from an antiques fair in Petersfield, England on February 6, 2010.



29

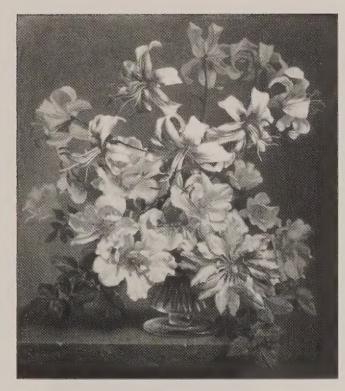
29 **UNKNOWN.** ***Mercury.*** Silver. 11" x 2 ¼" (27.94 x 6.35 cm). *L10.052. Missing from a gallery in Oxford, England on November 1, 2009.

STOLEN ART ALERT

RECOVERED ART*

PAINTINGS

15



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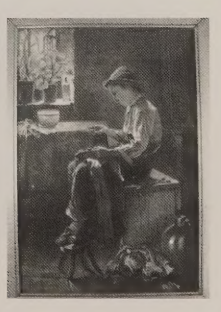

19

15 **EDGAR DEGAS** (French, 1834-1917). ***Blanchisseuses Souffrant des Dents (Laundry Women with Toothache),*** ca. 1870-72. Oil on canvas. Stolen in late 1973 from the Malraux Museum, Le Havre, France while on loan from the Louvre. Recovered after a Malraux Museum employee spotted it in a Sotheby's auction catalogue in October 2010. Returned to the French government in December 2010.

16 **G. BENNETT-OATES** (English, 1928-2009). ***Still Life with Roses.*** 21" x 18" (53.34 x 45.72 cm). *L92.684. *R776. Stolen from a private residence in England on June 3, 1992. Recovered by authorities with the help of the ALR in September 2010.

17 **JOHANNES KLINKENBEG** (Dutch, 1852-1924). ***View at Leeuwarden with the "Olde Hove."*** Oil on canvas. 40.01 x 53.01 cm (approx. 15 ¾" x 20 ¾"). *L09.430. *R1182. Stolen on April 7, 2009 from a private residence in The Netherlands. Recovered with the help of the ALR in August 2010.

18 **CHARLES-FRANÇOIS LACROIX** (French, ca. 1700-1782). ***Seascape with Ruined Arch.*** See inside back cover.

19 **CARLTON A. SMITH** (English, 1853-1946). ***A Button Short.*** R1114; *L05.252. Stolen from a private residence in England in 2005 and recovered with the help of the ALR in August 2010.

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* Numbering for the year 2010/2011 Cumulative Index of Recovered Art began with Vol. 12, no. 1.

STOLEN ART ALERT

RECOVERED ART

20 & 21 MARCUS STONE (English, 1840-1921). Pair of paintings: ***Spring*** and ***Summer.*** Both oil on canvas. Both 18" x 12" (45.72 x 30.48 cm). *N05.34. *R1254. Stolen from a private residence in Washington, DC in January 1999 and recovered with the help of the ALR in November 2010.

20

22 JOHANN ZOFFANY (German, 1733-1810). ***Portrait of Major George Maule,*** 1783. Oil on canvas. 61.49 x 47.50 cm (approx. 24 ¼" x 18 ¾"). *L09.201. *R1091. Stolen from a private residence in London, England in January 1979. Recovered with the help of the ALR in November 2010.

21

22

FURNITURE

23 ***George III Sideboard*** (English, 18th century). Mahogany with satinwood inlay. H: 36"; W: 78"; D: 30" (91.44 x 198.12 x 76.20 cm). *L96.2061. *R1258. Stolen from a private residence in Banbury, England on October 10, 1996. Recovered with the help of the ALR in November 2010.

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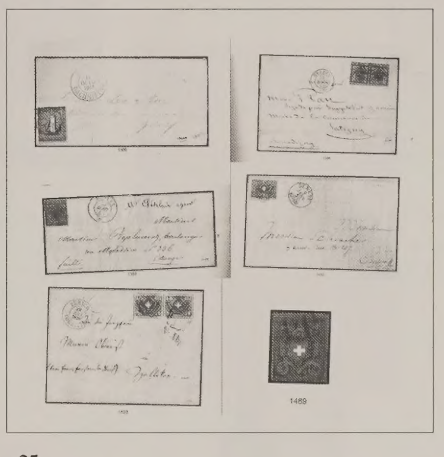

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MISCELLANEOUS

24 *British Colonial Proof Trade Dollar Coin* (1902). Gold. *L00.2014. *R1198. One of three valuable coins stolen in transit between New York and London, England in 2000 and recovered with the help of the ALR in August 2010.

25 *Set of Six Stamps.* *L09.565. *R1072. Stolen in transit between Switzerland and the U.S. in March 1990. Recovered with the help of the ALR in August 2010.

WATCHES, CLOCKS TIMEPIECES

26 LEROY & FILS (French, 19th century). *Ormulu Mantel Clock.* H: 17 ½" (44.45 cm). *L96.1153. *R1277. Stolen from a private residence in England on June 21, 1996. Recovered with the help of the ALR in October 2010.

STILL MISSING

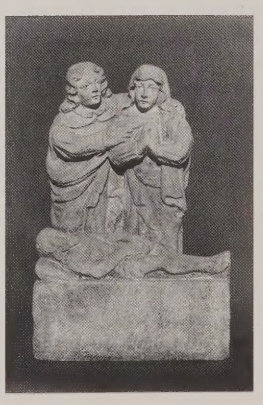
The Following Items Stolen in 1986 and 1990 in Palm Springs, CA and Published Most Recently in *IFAR Journal*, Vol. 9, no. 2, 2007, are Still Missing:

WORKS ON PAPER

Pier Francesco Fiorentino, Attrib. to (Italian, flourished 1470–1500), *Sketch of a Young Man*. Ochre-colored crayon. *86.172.1 (*IFARreports*, June 1986, no. 434.).

Pablo Picasso (Spanish, 1881–1973). *Horse and Rider*, 1957. Gouache, 61.0 x 50.8 cm. Signed l/l; dated u/r. *86.172.2 (*IFARreports*, June 1986, no. 679).

SCULPTURE



John the Baptist and the Virgin Mary Interring Christ (German, 15th century). Stone. Sculpted by a German master from the Rhine region. *90.123.1 (*IFARreports*, June 1986, no. 286).

Johannes Nadirainer (German, 19th century), *A Tired Man*. Bronze. Signed: "Joh. Nadirainer"; inscribed on the base: "Molded by H. Schabel. Dengg, Tegernsee." *90.123.2 (*IFARreports*, June 1986, no. 287).

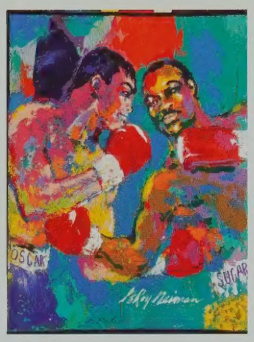
Peter Makolies (German, b. 1936), *Judith*. Terracotta, 35.6 x 39.4 cm. Signed. *90.123.3. (*IFARreports*, June 1986, no. 288).

FOR ADDITIONAL INFORMATION, CONTACT:

The Carlan Gallery
1546 N. Palm Canyon Drive
Palm Springs, California 92262
TEL 760-322-8002 FAX 760-320-5305

REWARD BY OWNER FOR INFORMATION LEADING TO RECOVERY

100



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18

STOLEN ART

100 KINDRED MCLEARY (American, 1901-1949). ***Cotton,*** 1928. Oil on cotton. 25.5 x 29.0 cm (approx. 10" x 11 ½"). *L10.109078. Stolen from an exhibition in San Antonio, TX on February 20, 1928.

101 LEROY NIEMAN (American, born 1921). ***Oscar de la Hoya — Shane Mosley,*** 2000. Enamel and acrylic. 45.72 x 39.67 cm (approx. 18" x 15 ½"). *N10.002. Stolen from a gallery in Las Vegas, NV on December 23, 2009.

102 SEBASTIANO DEL PIOMBO, Circle of (Italian, 1485-1547). ***Portrait of Giulia Gonzaga.*** Oil on panel. 22.9 x 16.5 cm (approx. 9" x 6 ½"). *L10.012. Stolen from a gallery in London, England on November 1, 2009.

104 VINCENT VAN GOGH (Dutch, 1853-1890). ***Poppy Flowers (Vase with Flowers),*** 1887. Oil on canvas. 12" x 12" (30.48 x 30.48 cm). Signed l/l. *L10.108951. Stolen from the Mahmoud Khalil Museum, Cairo, Egypt, on August 20, 2010. The same painting was stolen from the museum once before — in 1978 — and recovered in Kuwait in 1980. Image is cropped.

116 FRIEDENSREICH HUNDERTWASSER (Austrian, 1928-2000). ***Spectacles on a Small Face,*** 1968. Woodcut on paper. 88.9 x 109.22 cm (35" x 43"). Signed, dated and numbered l/r. Ed. no. 131/200. *N10.029. Stolen at Los Angeles International Airport, Los Angeles, CA on December 12, 2009. See also item nos. 113, 117, and 118.

RECOVERED ART

18 CHARLES-FRANÇOIS LACROIX (French, ca. 1700-1782). ***Seascape with Ruined Arch.*** Oil on copper. 22.23 x 29.97 cm (approx. 8 ¾" x 11 ¾"). *N80.374; *N09.106. *R1210. Stolen from the Wadsworth Atheneum in Hartford, CT on December 6, 1980. Recovered with the help of the ALR and returned to the museum on August 18, 2010.

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